

# LEARNED

Commendation of the politique Lawes of England: wherein, by most pithie reasons and evident demonstrations, they are plainly proued farre to excell, as well the Ciuil Lawes of the Empire, as also all other Lawes of the world, with a large discourse of the difference betwene the two governments of kingdomes, whereof the one is onely regall, and the other consisteth of regall and politique administration conioyned.

Written in Latine by the learned and Right Honorable master Fortescue Knight, Lord Chauncellor of England, in the time of King Henrie the sixt. And Translated into English by Robert Mulcaster.

L O N D O N,  
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*Cum Priuilegio.*

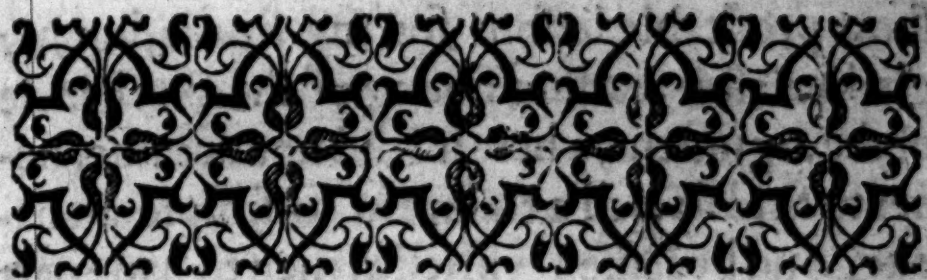
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## Pio Lectori.

**I**stius non minus pij, quam eruditi opusculi exemplar, nactus, quum antiquitatem venerandam, unà cum eruditione ac pietate coniunxerim: Non potui optime lector, aut patriæ tam ingratus, aut antiquitatis tam inofficiosus cultor esse, ut te illius lectione diutius fraudarem. Continet enim in se (ut cetera taceam) politicarum & civilium nostre Angliæ legum, quibus preclara & florentissima hec respublica sub illustrissimo & nunquam satis laudato principe nostro rege Henrico sexto, eiusque progenitoribus regibus Angliæ hætenus felicissime fuerit erecta, instituta, & gubernata, doctissimum encomiõ. Vnde easdem nostras leges, non solum romanorum Cesarum, sed & omnium aliarum nationum constitutiones, multis parasangis, prudentia, iustitia, & equitate, præcellere, facile perspicias. Eme ergo, lege, & fruiere, ac labores nostros boni consule.

Vale.



To the Right Worshipful  
*John Walshe, Esquire, one of*  
the Queene her learned Iustices  
of her Highnesse Court of com-  
mon Pleees, *Robert Mulcaster* wisheth,  
long life and health.



I happened me of late,  
(Right Worshipfull sir)  
to light vppon this little  
Treatise, which I incontin-  
ent desired to runne  
ouer, because it seemed  
to discourse vpon some  
pointes of the lawes of  
our cuntry, whereof I my selfe then was and  
now am a Student. When I had ouer-runne it,  
my desire to reade it, became nothing counter-  
uaile with the gladnes that I had read it, for  
my desire to reade it came vpon hope, to finde



## The Epistle

some profitable lessons for my studie, but my gladnes after reading sprang of the excellencie of the argument, wheron I did not dreame, neuer to find so rich a trefure in so simple an habite. And because I wished al men to haue part of my delight, me thought it good to translate it into english forth of Latin, in which tong it was first written. The auethor of the booke was one maister *Fortescue* Knight Serieant at the Lawe, and for his skill and vertues preferred by King Henry the sixt, to be Chancellor of this realme. The entrie of the booke it selfe sheweth, where, and vpon what occasion, it was written. It was written in Berrie in Fraunce, where Prince Edward, sonne to Henry the sixt, afterward slaine at Tewkesburie by Edward the fourth, did then remaine with his mother Queene Margaret in the house of Renate her father Duke of Angew and king of Cicile, during the time that Edward the fourth reigned in the Realme, and Henrie the sixt was fled into Scotland. The occasion was this: The Chancellor being fled into France with the young Prince, and perceiuing his delight to bee all bent to Chiuallrie as a thing of greatest neede, considering hee ment by force the restitution of his father, and thereby his  
owne

*dedicatorie.*

owne, to the kingdome of England, tooke occasion (for that his hope wasto see the Prince raigne here) to moue him to a diuision of his affaires, and as he armed himselfe against the enemye, so to adorne himselfe against his being king, with skill of lawes, which doo preserue each state so in peace, that it may, if neede bee, warre; and so gard it in warre, that it may haue peace in it. The argument is this, that the skill of the Countrie lawes is needful for the Prince, although not so deepe as for purposed professors, yet so full as to their honor may & ought to fal in Princes. And for that the Prince should thinke the thing to be a Princely knowledge, he taketh occasion (by comparing the gouernment of this Realme with others, and the lawes of this land with the Ciuill, with whom it is of all men lightly compared, and the betternes of points wherein they both trauaile, and prouisions by the one wiselyer foreseene then by the other) to proue the singularitie of this state, which it behoued the Prince to learne, seeing hee was like to succede his father, and to vnderstand the lawes, which maketh the state to be so singuler. The particulars I referre to the Booke, whereof thus much I do and no lesse



*The Epistle dedicatorie.*

could well say. Why I did choose your worship  
to be protectour of my labours, I shall not need  
tediously to touch, it shall be sufficient to say,  
that in choise of many, I picked you alone, not  
doubting your liking in allowing, seeing mine  
election in dedicating: And so committing to  
the Almighty the good preservation of your  
worship, I humbly take my leaue,  
this xij, of October

*Robert Mulcaster.*

**D**URING the cruell rage  
of the late mortall  
warres within the realme  
of Englande, when the  
most vertuous and godly  
King Henry the first with  
Queene Margaret his  
wife, the Kings daughter  
of Ierusalem & Sicile, &  
their only sonne Edward  
Prince of Wales, were  
forced to flee the Lande: &  
the King himselfe after-  
ward in the same cruel tu-  
mult falling into the blo-  
dy handes of his deadly e-  
nemies his own subiects,  
was of them committed to  
priso, where he a long time  
remained in strait captiui-  
ty, the Queen & the prince  
her son thus banished out  
of their country, making  
their abode in the Duchy  
of Berry, a dominio of the  
foresaid king of Ierusalē,

**S**EUIENTE dudum  
in regno Angliæ  
nefandissima rabie  
illa, qua piissimus i-  
bidein Rex Henri-  
cus sextus, cum  
Margareta Regina  
consorte sua, filia  
Regis Ierusalem &  
Seiciliæ, ac eorum  
vniogenito Edwar-  
do principe Walliæ,  
inde propulsi sunt,  
sub qua & demum  
Rex ipse Henric' a  
subditis suis depre-  
hensus, carceris di-  
utinum passus est  
horrorem, dum Re-  
gina ipsa cum so-  
bole, patria sic ex-  
torris, in Duca-  
tu Berren prædicti  
Regis Ierusalem do-  
minio, moraban-  
tur.

A.iiij.

Princeps



*Fortescue, in commendation*

Princeps ille, mox  
vt factus est adultus,  
militari totū se con-  
tulit disciplinæ, &  
sæpe ferocibus &  
quasi indomitis in-  
sedens caballis, eos  
calcaribus vrgens,  
quandoque lancea,  
quandoq; mucrone,  
alijs quoque instru-  
mentis bellicis, so-  
dales suos, iuvenes,  
sibi seruientes, bel-  
lantium more inua-  
dere ferireque, iux-  
ta martis gymnasij  
rudimenta, delecta-  
batur. Quod cer-  
nens miles quidam  
grandæuus, præ-  
dicti regis Angliæ  
Cancellarius, qui e-  
tiam ibidem sub hac  
clade exulabat: Prin-  
cipem sic affatur.

The Prince shortly after  
growing to mā's state, ap-  
plied himself wholly to the  
feates of armes, much de-  
lighting to ride vpon wild  
& vnbrokē horses, not spa-  
ring with spurs to break  
their fiercenes. He practi-  
sed also sometimes with  
the pike, sometimes with  
the sword, & other warlik  
weapons after the maner  
and guise of warrior's ac-  
cording to the vse of mar-  
tiall discipline, to assaile  
and strike his compani-  
ons, I meane the young  
men that attended vpon  
his person. Which thing  
when a certeine auncient  
knight, being Chauncel-  
lour to the foresaide king  
of England saw, who also  
in the miserable time did  
there remaine in exile hee  
spake thus to the Prince.

*First*

First he moueth the prince to the knowledge  
of the lawe.

Chap. I.

**Y**Our singuler toward-  
nes, most gracious  
Prince, maketh me right  
glad, when I behold how  
earnestly you do embrace  
martial feates: For it is  
conuenient for your grace  
to be thus delited, not on-  
ly for that you are a soul-  
dior, but much rather for  
that you shalbe a King.  
For it is the office & du-  
tie of a king to fight the  
battailes of his people, &  
also rightly to iudge the,  
as in the viii. chapiter of  
the first booke of Kinges  
you are plainly taught.  
Wherefore I would wish  
your grace to be w<sup>th</sup> as er-  
nest zeale giue to y<sup>e</sup> study  
of the laws, as you are to  
the knowledge of armes,

**G**Audeo verò, se-  
renissime Prin-  
ceps, super nobilif-  
sima indole tua: vi-  
dens quanta auidi-  
tate militares tu am-  
plecteris actus, con-  
uenit namq; tibi ta-  
liter delectari, ne-  
dum quia miles es,  
sed amplius quia  
rex futurus es. Re-  
gis nempe officium  
pugnare est bella  
populi sui, & eos  
rectissime iudicare,  
vt primo regum ca-  
pitul. viij. clarissime  
tu doceris. Quare  
vt armorum, vti-  
nam & legū studi-  
is, simili zelo te de-  
ditum contēplarer,  
cum



*Fortescue, in commendation*

cum vt armis bella,  
ita legibus iudicia  
peragantur. Quod  
Iustinianus Augu-  
stus, æquissima li-  
brans mente, in  
initio prohemij li-  
bri sui institutio-  
num, ait: Impe-  
ratoriam Maiesta-  
tem non solum ar-  
mis decoratam, sed  
& legibus oportet  
esse armatam,  
vt vtrunque tem-  
pus bellorum &  
paci recte possit  
gubernare. Ta-  
men vt ad legum  
studia feruide tu-  
anheles, maximus  
legislator ille Moy-  
ses, olim Synago-  
gæ dux, multo for-  
tius Cæsare te in-  
uitat, dum regibus

because that like as wars  
by force of chivalrie are  
ended, euen so iudgemēt  
by the Lawes are deter-  
mined. Whiche thinge  
Iustinian the Emperour  
well & wisely & aduisedly  
pondering, in the begin-  
ning of the p̄face of his  
book saith thus: It beho-  
ueth the imperial maiesty  
not onely to be garded w<sup>th</sup>  
armes, but also to be ar-  
med with lawes, to thend  
that he may be able right-  
ly to erecute the gouern-  
mēt of both times, as well  
of war as of peace. How-  
beit for your more earnest  
endeuour to the studie of  
the Law, the exhortation  
of the chiefest lawmaker  
Moyles, sometime capti-  
ayne of the Synagoge,  
ought to be of much more  
force with you, then the  
wordes

woordes of Iustinian, whereas in the xvii. chapter of the booke of Deuteronomie hee dothe by the auctoritie of God straitly charge the kings of Israel to be readers of the law all the daies of their life saying thus: When the king shall sitte vpon the princely seate of his kingdom, he shall write him out this lawe in a booke, taking the copie thereof of the priests the Leuitz: and he shall haue it with him, and he shall reade it all the dayes of his lyfe, that he may learn to feare the Lord his God, and to keepe his commaundementes and ordinaunces wyrtten in this Lawe, And Helynandus expounding the same saith thus:

Israel diuina auctoritate ipse præcipiat, eorum leges legere omnibus diebus vitæ suæ, sic dicens: Postquam fuerit rex in solio regni sui describet sibi Deuteronomij Leges in volumine, accipiens exemplar à sacerdotibus Leuiticæ tribus, & habebit secum, legetque illud omnibus diebus vitæ suæ, vt discat timere dominum Deum suum, & custodire verba & ceremonias eius quæ in lege scripta sunt, Deuteronom. capit. decimo septimo, quod exponēs Helynandus dicit: Prin-



*Fortescue, in commendation*

Princeps ergo non debet iuris ignarus esse, nec pretextu militiæ legem permittitur ignorare. Et post pauca, a sacerdotibus Leviticæ tribus assumere iubetur exemplar legis, id est a viris Catholicis & literatis, Hæc ille: Liber quippe Deuteronomi. est liber legum, quibus Reges Israel subditum sibi populum regere tenebatur. Hunc librum legere, iubet Moyses Reges, ut discant time- re Deum, & custodire mandata eius, quæ in lege scripta sunt.

A Prince therefore must not be ignorant of the law, neyther is it tollerable that he vnder the pretence of warrefare shoulde be vnskillfull in the Lawe. And a little after he is commaunded, saith he, to receiue the copy of the law of the priests the Levites, that is to say, of catholike and learned men, Thus much he: For the booke of Deuteronomie is the booke of the laws, wherewith the kinges of Israel were bound to rule and gouerne their subiectes. This booke dothe Moyses commaund Kings to reade, that they may learne to feare God, and keepe his Commandements, which are written in the lawe.

Behold

Beholde the effect of the law is to fear God, wherunto man cannot attaine, vnlesse he first know the wyll of God, whych is written in the law. For the pꝛincipall poynt of all seruice is to know the will and pleasure of the lord or master to whom seruyce is due. Howbeit the lawmaker Moyses first in this charge mencioneth the effect of the law, that is the feare of God, and next he allureth vs to the keeping of the cause thereof, that is to say, of Gods commaundements. For in the mind and intent of the exhorter, the effect goeth befoze the cause. But what feare is this, which the Lawes do propone to the obseruers thereof;

Ecce timere Deum effectus est legis, quem non consequi valet homo, nisi prius sciat voluntatem Dei, quę in lege scripta est. Nam principium omnis famulatus, est scire voluntatem domini cui seruitur. Legis tamen lator Moyses, primo in hoc edicto effectũ legis videlicet timorem Dei commemorat: deinde ad custodiam causę eius, videlicet, mandatorum dei ipse inuitat. Nam effectus prior est quā causa, in animo exhortantis. Sed quis est timor iste, quę promittũt leges obseruatoribus suis?

Verę



*Fortescue, in commendation*

Veré non est timor ille, de quo scribitur: Quod perfecta charitas foras mittit timorem. Timor tamen ille, licet seruilis, sæpe ad legendum leges, reges concitat: sed non est ipse proles legis. Timor vero, de quo hic loquitur Moyses, quem & parant leges, est ille de quo dicit propheta: Timor Domini sanctus permanet in seculum seculi. Hic filialis est & non nouit penam, ut ille qui per charitatem expellitur.

Surely it is not that fear whereof it is wrytten: that perfect charitie or loue expelleth feare. Yet this same feare, though it be bond and seruile, oftentimes prouoketh kings to the reading of the lawes: but it proceedeth not out of the law. But that feare wherof Moyses here speaketh, which also proceedeth out of the Lawes, is the selfe same feare, that the prophet speaketh of, saying: The feare of the Lord is holy, & endureth for euer and euer. This is such a louyng feare as naturally children bear to their dear parèts, comonly tearmed the reuerence of the chyld toward hys parents. Therunto there is no punishment due as a thing wrought by loue.

For

For this feare proceedeth out of the Lawes, whych teach to doe the will of God, so that it deserueth no punishment. But the glory of the Lord is vpon them that feare him, and he doth glorifie them. Wea this feare is euen that same feare, whereof Job, after that he had diuersly searched for wisdom, sayth thus: Behold the fear of the Lord is perfect wisdom, and to forsake euill is vnderstandyng. That the forsaking of euill is the vnderstanding of the feare of God, this doe the Lawes teach, wherby it followeth that the same feare proceedeth out of them.

Nam iste à legibus proficiscitur, quæ docent facere voluntatem Dei, quo ipse penam non meretur. Sed gloria domini est super metuentes eum, quos & ipse glorificat. Timor autem iste, timor ille est, de quo Job, postquam multifarie sapiētiam inuestigat, sic ait: Ecce timor dñi, ipsa est sapiētia, & recedere à malo, intelligētia. Job ca. 28. Recedere à malo, quod intelligentia timoris dei est, leges docent, quo & timorē hunc ipsæ parturiunt.

*The Princes replie to the Chauncelours motion. Cap. 2.*

Hæc



*Fortescue, in commendation*

**H**Æc vt audiuit  
princeps, erecto  
in senem vultu, sic  
locutus est. Scio,  
Cancellarie, quod  
liber Deut. quem tu  
commemorās, sacrę  
scripturę volumen  
est: leges quoque &  
ceremoniæ in eo  
conscriptę, etiam  
sacrę sunt, à domino  
editę, & per Moysen  
promulgatę: quare  
eas legere sanctę  
contēplacionis dul-  
cedo est. Sed lex,  
ad cuius scientiam  
me inuitas, humana  
est, ab hominibus  
ēdita, & tractans ter-  
rena: quo, licet  
Moyses ad Deuter'  
lecturam Reges Is-  
rael astrinxerit, eum  
per hoc reges alios,

**T**he Prince hearyng  
this, and stedfastly be-  
holdyng the olde man,  
spake thus to hym. I  
know good Chaunceloz,  
that the booke of Deutro-  
nomie, wherof you speke,  
is a booke of holy Scrip-  
ture: The lawes also and  
ordinances therein con-  
tayned are holy, of the  
Lordes making, and pub-  
lished by Moyses: Where-  
fore the reading of them  
is a pleasant act of holie  
contemplaciou. But that  
Law, to the knowledge  
whereof you counsell me,  
is humaine, made by  
men, and intreating of  
worldly matters: where-  
fore though Moyses bynd  
the Kinges of Israell  
to the reading of Gods  
Law, yet that thereby he  
forceth all other Kinges  
to

to doe the lyke in their owne lawes, that standeth by no good reason, seing that of both the reasonings the cause is not like.

ad consimiliter faciendum in suis legibus, cōcitasse, omne effugit rationē, cū vtriusq; lecturæ non sit eadem causa.

*Here the Chancelour fortifieth his assertion.*

*Chap. 3.*

**I** Perceiue (of the Chancelour) by your answer, most worthy prince, how earnestly you haue considered & weighed the qualite of my exhortation: So that hereby you doe much encourage me, both more plainely, more largely, and also more deeply to discourse y<sup>e</sup> same. Wherefore you shall understand, that not only Gods Lawes, but also mans, are holpe, for so much as the Lawe is defined by

**A**T Cancellarius, Scio (inquit) per hæc quæ iam dicis, princeps clarissime, quanta aduertētia, exhortationis meæ tu poteris qualitem, quo me non infime cōcitas sup inceptis ne dū clarius, sed & profundius quodāmodo tecū disceptare: Scire igitur te volo, quod nō solū Deut. leges, sed & omnes leges humanæ facere sunt, quo lex sub  
B.i. his



his verbis definitur: Lex est sanctio sancta, iubēs honesta, & prohibēs contraria: sanctum etenim esse oportet, quod esse sanctum definitum est. Ius etiam describi perhibetur, quod illud est ars boni & æqui, cuius merito quis nos sacerdotes appellat. Sacerdos enim, quasi sacra dans, vel sacra docens, per etimologiam dicitur, quia ut dicunt, iura, leges sacre sunt, quod eas ministrantes & docentes, sacerdotes appellantur. A deo etiam sunt omnes leges editæ, quæ ab homine promulgantur. Nam cum dicat Apostolus,

these words: The law is a holy sanction or decree, commanding things y bee honest, & forbidding y contraries: Now the thing must needs be holy, which by definition is determined to be holy. Right also, by description is called the arte of y which is good & streight, so that in this respect a man may wel call vs *sacerdotes*, y is to saye, giuers or teachers of holy things (for so by interpretation doth *sacerdos* signifie). For so much then as y lawes are holy, it followeth that the ministers and setters forth of them may right wel be called *sacerdotes*, that is giuers & teachers of holy things. Furthermore all lawes published by men haue also their authoritie frō God. For as the Apostle saith:

AN

is  
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All

All power is from y<sup>e</sup> Lord  
God. Therefore the  
lawes, that are made by  
man, which thereunto  
hath receiued power from  
the Lord, are also ordai-  
ned of God, as also appea-  
reth by this saying of the  
auctor of all causes: what  
so euer the seconde cause  
doth, the same doth the  
first cause by a higher and  
more excellent meane.  
Therefore Iosaphat the  
King of Iuda saith to his  
Iudges: The iudge-  
ments, which yee exe-  
cute, are the iudgements  
of God, in the ninetynth  
Chapter of the seconde  
Booke of Cronicles.  
Whereby you are taught,  
that to learne Lawes,  
though they bee mans  
lawes, is to learne holy  
lawes and the ordinaun-  
ces of G D D: so that the

quod omnis potes-  
tas a domino deo  
est, leges ab homi-  
ne conditæ, qui  
ad hoc a domino  
recipit potestatem,  
etiam a deo con-  
stituuntur, dicen-  
te auctore causa-  
runt: quicquid fa-  
cit causa secun-  
da, facit & cau-  
sa prima, altiori  
& nobiliori mo-  
do. Quare Iosa-  
phat Rex Iuda, ait  
Iudicibus suis: Iu-  
dicia, quæ vos pro-  
fertis, iudicia dei  
sunt, secundo Pa-  
ralip. xix. Cap. Ex  
quibus erudiris,  
quod leges, licet  
humanas, addis-  
cere, est addiscere  
leges sacras & edi-  
ones dei, quo earum  
Bai. studium



studium non vacat a  
dulcedine cōsolati-  
onis sanctæ. Nec ta-  
men, vt tu conijcis,  
dulcedo hñodi cau-  
sa fuit, cur Moyfes  
reges Israel Deut.  
legere præceperat.  
Nam causa hæc, non  
plus reges quã ple-  
beios, ad eius lectu-  
ram prouocat, nec  
pl<sup>o</sup> Deut. librũ, quã  
alios Pentateuchi li-  
bros legere, pulsar  
causa ista, cum non  
minus libri illi, quã  
Deut. sacris abun-  
dent carismatibus,  
in quibus meditari  
p̄ sanctũ est. Quare  
non aliã fuisse cau-  
sam mandati huius,  
quam quia in Deut.  
plus quam in alijs  
libris veteris testa-  
menti, leges inse-

studie of them is not with-  
out a pleasant sweetnesse  
of holy cōsolatiō. And yet  
such sweete pleasure was  
not the cause, as you sup-  
pose, wherefore Moyfes  
commanded the kings of  
Israel to read the lawes  
of Deut. For this cause  
moueth not kinges no  
more then the common  
sort to y<sup>e</sup> reading of it, nor  
to the booke of Deuter.  
more then of any of the o-  
ther bookes of Moyses, in  
which, as wel as in y<sup>e</sup> book  
of Deuteronomy, is plen-  
tiful store of godly lessons  
& holy instructiōs, where-  
in to be deuoutly occupi-  
ed, is a holy thing. Ther-  
fore y<sup>e</sup> there was none o-  
ther cause of this cōman-  
dement, thẽ for y<sup>e</sup> y<sup>e</sup> lawes,  
wherby the king of Isra-  
el is bound to rule his peo-  
ple, are more precisely co-  
tained

teined in the booke of Deutronomie then in the other bookes of the old testament, the circumstances of the same commandement doe manifestly inform vs. For which cause you ought, most worthy Prince, no lesse then the kings of Israel to be moued and prouoked to bee a diligent trauailer in the study of those laws, whereby hereafter you shal rule your people. For that which was spoken to the king of Israell, must bee vnderstande to bee figuratiuely spokē to euery king hauing dominiō ouer godly people. And haue I not then well & hollosmly propounded vnto you the cōmandement giuen to the kings of Israel, cōcerning the learning of their law:

runtur, quibus rex Israel populum regere obnoxius est, eiusdem mandati circumstātiae manifeste nos informant. Quo, & te, princeps, eadem causa, nō minus, quam reges Israel exhortatur, vt legū, quibus populum in futurū reges, tu sis solers indagator. Nam, quod regi Israel dictum est, omni Regi populi videntis deum, typice dictum fuisse intelligendum est. An tunc non conuenienter vtiliterque proposui tibi mandatum Regibus Israel latum, de eorum lege addiscenda?

B.iii.

Dum



*Fortescue, in commendation*

Dum nedū eius exemplum, sed & eius auctoritas figuralis, te erudiuit & obligauit, ad consimiliter faciendū de legibus regni, quod annuente Domino hæreditaturus es.

Forasmuch as not only by his example, but also by his like Authoritie, hath taught you, and bounde you to the like dooing in the Lawes of the Kingdome, which Godwilling you shall inherit.

*¶ Here the Chauncellour proueth that a Prince by the lawes may be made happy and blessed. Ca. 4.*

**N**ON solū vt deū timeas, quo & sapiēs eris, princeps colendissime, vocāt te leges, cū prophetā dicente, Venite filij, audite me, timorē dñi docebo vos: Sed etiā vt felicitatem, beatitudinemque (prout in hac vita nancisci poteris) adipiscaris, ipsæ leges ad earum disciplinātū te inuitant. Philosophi namque

**N**ot only to the intent you should feare God and so become wise, doo the Lawes with the Prophet call you saying, Come children, heare mee, I will teach you the feare of the Lorde: but also that you may aspire vnto felicity and blessednesse (as farre forth as in this life they may bee attained) do the Lawes will you, most gracious prince, to bee studious of them. For all the Philosophers, which

which haue so diuersly  
reasoned of felicity, haue  
all agreed together in this  
one point, that felicitie  
or blessednesse is the ende  
of all mans desire, and  
therefore they call it chief  
goodnesse. Now be it  
the Peripatetikes placed  
it in Vertue, the Sto-  
ikes in Honesty, and the  
Epicures in Pleasure.  
But seeing the Stoikes  
defined honestie to bee  
that, which is well and  
laudably done with ver-  
tue, and the Epicures  
held nothing to bee plea-  
sant without vertue, ther-  
fore all those sects, as saith  
Leonard Aretine in his  
Introduction to Morall  
Philosophie, agreed in  
this, that it is onely ver-  
tue that causeth felicity.  
Wherefore Aristotle also  
in the 7. booke of his poli-

B.iii.

omnes, qui de felici-  
tate tā varie disputa-  
bāt, in hoc vno con-  
uenerūt, v. z. qd' fel-  
citas siue beatitudo  
finis est, oīs humani  
appetitus, quare &  
ipā summū bonū ap-  
pellāt. Peripatetici tū  
cōstituebāt eā in vir-  
tute: Stoici in hone-  
sto: Et Epicuri in vo-  
luptate. Sed quia Sto-  
ici honestū definie-  
bāt esse qd' bene fit  
& laudabili ex vir-  
tute, & Epicuri asse-  
rebāt nihil esse volup-  
tuosum sine virtute,  
Oēs sectæ illæ, vt di-  
cit *Leonardus Are-  
tin'* Ysagogico mo-  
ralis disciplinæ, in  
hoc concordauerūt,  
qd' sola virt' est, quæ  
felicitatē operatur.  
Quo & Philosophus  
(in 7. polit. felicitatē



*Fortescue, in commendation*

definiēs) dicit, quod ipsa est perfect<sup>o</sup> vsus virtutū. Hisiā p̄suppositis, cōsiderare te volo etiā ea que sequentur. Leges humane non aliud sunt quā regulæ, quibus p̄fecte iusticia edocetur. Iustitia vero, quā leges reuelant, non est illa, quæ cōmutatiua vel distributiua vocatur, seu alia quæuis particularis virt<sup>o</sup>, sed est virtus p̄fecta, quæ iusticiæ legalis nomine designatur. Quam Leonardus prædictus ideo dicit esse perfectā, quia omne viciū ipsa eliminat, & omnem virtutem ipsa docet: quo & omnis virtus ipsa merito nuncupatur.

tiques defining Felicitie sayth that it is the perfect vse of Vertues. Thus much being now presupposed, I woulde haue you to consider these thinges also that follow. Mans lawes are nothing els but certeine rules, whereby Iustice is perfectly taught. But that Iustice, which the Lawes doe shewe, is not the same that is called Commutatiue or distributiue, or any other particular vertue, but it is a perfect vertue exp̄essed by the name of Iustice legall. Which the foresayde Leonard doth therfoze affirme to be perfect, because it ercludeth all vice, & teacheth all vertue: For which cause also it is worthely called by the name of all vertue.

Whereof

Whereof Homere say-  
eth, and likewise Aristo-  
tle in the fifth Booke of  
Mozall philosophie, that  
it is the chiefest of all  
vertues, and that neither  
Lucifer nor Hesperus are  
so bright and beaming as  
it is. Moreover this iu-  
stice is the thing where-  
uppon all Princely care  
dependeth and resteth,  
without the whiche the  
King can neither rightly  
iudge, nor yet duly fight.  
But this beyng once ob-  
teyned & perfectly kept,  
then al the whole duty re-  
quired in a King is iustly  
performed. Nowe then  
seepng that the perfect  
vse of vertues is felicitie,  
and that Iustice vled a-  
mongst men, which can-  
not be obtained vnto nor  
learned but by the lawe,

De qua Homer<sup>o</sup> di-  
cit, similiter & phi-  
losophus quinto E-  
thicorum, Quod ip-  
sa est præclarissima  
virtutum, & nec Lu-  
cifer, nec Hesper-  
us, ut illa, est admi-  
rabilis. Iusticia ve-  
ro hæc, subiectum  
est omnis regalis  
curæ, quo sine il-  
la Rex iuste non iu-  
dicat, nec recte pu-  
gnare potest. Illa  
vero adepta, per-  
fectæq; seruata, æ-  
quissimè peragitur  
omne officium Re-  
gis. Vnde cum per-  
fectus vsus virtu-  
rum sit felicitas, &  
Iusticia humana,  
quæ non nisi per le-  
gem perfecte nâcis-  
citur, aut docetur,  
necum



*Fortescue, in commendation*

nedum sit virtu- is not onely the effect of  
tum effectus, sed vertues, but is all ver-  
& omnis virtus: tue it selfe: hereof it fo-  
Sequitur, quòd iu- loweth, that the practicer  
stitia fruens, fœ- of Justice is by the Lawe  
lix per legem est, happie, and so thereby  
quo & per eam ip- he is made blessed, for so-  
se fit beatus, cum muche as blessednesse or  
idem sit beatitu- happynesse and felicitie  
do & fœlicitas in are both one in this short  
hac fugaci vita, cu- and transitorie lyfe, of  
ius & per iustitiam the which lyfe throughe  
ipse summum ha- Justice hee enioyeth the  
bet bonum. Ta- chief and principall good-  
men non nisi per nesse. And yet the lawe  
gratiam lex pote- is not able to perfourme  
rit ista operari, ne- these thinges without  
que legem aut vir- the assistaunce of grace,  
tutem sine gratia without the whiche al-  
tu addiscere pote- so you cannot learne nor  
ris, vel appetere. couet eyther lawe or ver-  
Cum, vt dicit Pa- tue. For, as saith Pa-  
riss. in libro suo de riss. in his booke intituled  
*Cur Deus homo*, the inward  
virtus hominis ap- vertue of mā, wherein his  
petetiuā interior, desiring is placed, is so  
through

through originall sinne  
defaced & corrupt, that it  
esteemeth vicious woꝝkes  
foꝝ pleasaunt, & vertuous  
woꝝkes foꝝ vnpleasant.  
Therefore, in that some  
men applie and endeouour  
themselves to the loue &  
folowinge of vertues, it  
procedeth of the boũtifull  
goodnes of God, & not of  
the power of mā. Is there  
not the speciall cause why  
y<sup>e</sup> lawes, which being pre-  
uented & accompanied with  
grace, do performe all the  
premisses, should with al  
diligent trauel be lerned?  
Seeing that who so hath  
perfectly attayned there-  
vnto, the same shall enioy  
felicitie, the end & perfoꝝ-  
maunce, as the Philoso-  
phers say, of mans desire,  
by meanes wherof he shal  
in this life be blessed, in y<sup>e</sup>

per peccatū origi-  
nale ita viciata est,  
vt sibi viciorū sua-  
uia, & virtutum as-  
pera opera sapiant,  
Quare, quod aliqui  
ad amorem sectati-  
onemque virtutis se  
conferunt, diuinæ  
bonitatis beneficiū  
est, & non humanæ  
virtutis. Nam tunc  
leges, quæ, præue-  
niente & comitan-  
te gratia, omnia  
premissa operantur,  
toto conamine ad-  
discendæ sunt? dum  
felicitatē, quæ secū-  
dum Philosophos,  
est hic finis & com-  
plementum huma-  
ni desiderij, earum  
apprehensor obti-  
nebit, quo & beatus  
ille erit in hac vita;  
cuius



*Fortescue, in commendation*

eius possidens summum bonum. Verè, etsi non hæc te moueant, qui regnum recturus es, mouebunt te & ar-  
etabunt ad disciplinatum legis Prophetæ verba dicentis : *Erudimini, qui iudicatis terram* : non enim ad eruditionem artis factiue, aut mechanicæ, hic mouet Prophetæ : Cum non dicat, *Erudimini, qui colitis terram*, nec ad eruditionem scientiæ tantum theoricæ, quamuis oportuna fuerit incolis terræ, quia generaliter non dicit, *erudimini qui inhabitatis terram*,

he now possesseth y chiefe goodnes therof. Doubtles, if these things moue you not, which shall haue the rule and gouernment of a kingdom, yet the wordes of the Prophet shal moue you, yea and force you to the studie of the Lawe, which wordes be these : Be ye learned you that are Iudges of the earth: Here the Prophet exhorteth not to the lerning of a base art or a handicraft, for he saith not : Be yee learned you that are inhabitants of the earth, neither doth he counsell to the lerning of knowledge speculatiue, though it bee not vnnecessary for y inhabitants vpon the earth, For he sayeth not generally : Be ye learned you that dwel vpon the earth,  
but

but by these wordes doth the Prophet call Kinges only to the learning of the law, wherby iudgements are executed, forsomuch as he specially saith, Be ye learned you that are Iudges of the earth. And it followeth: least the Lord waxe angry, & so you perish from the way of righteousness. Neyther doth holy scripture (O kinges sonne) commaund you only to be skilfully instruct in the Lawes, whereby you shall purchase and obtain the possessiō of iustice, but also in an other place it biddeth you unfainedly to loue iustice, wher it saith: O set your loue & affection vpon Iustice, you that are Iudges of the earth, in the first chapter of the book of Wisedome.

sed solum ad disciplinam legis, qua Iudicia redduntur, Reges inuitat Propheta in his verbis, Cum specialiter ipse dicat: *Erudimini, qui iudicatis terram*. Et sequitur: *Ne quando transcat Dominus, & pereatis de via iusta*. Nec solum legibus, quibus iustitiam consequeris, (filii Regis) imbui te iubet sacra scriptura, sed & ipsam iustitiam diligere, tibi alibi præcipit, cum dicat: *Diligite Iustitiam, qui iudicatis terram*, Sapientia capitulo primo.

*Ignor-*



*Fortescue, in commendation*

*Ignorance of the Law causeth the  
contempt thereof. Cap. 5.*

**S**ed quomodo iu-  
sticiam diligere  
poteris, si non pri-  
mo legum scienti-  
am, quibus ipsa cog-  
noscatur, utcumque  
apprehēderis? Dicit  
namque Philoso-  
phus, quod nihil a-  
matum nisi cogni-  
tum. Quare Fabius  
Orator ait, *Quod fe-  
lices essent artes, si  
de illis soli artifices  
indicarent. Ignorantia  
vero non solum non amari, sed  
& sperni solet.*  
Quo poeta quidam  
sic ait:

*Omnia quæ nes-  
cit, dicit spernenda  
colonus.*

**B**ut how can you loue  
Justice, vnlesse you  
first haue a suffycient  
knowledge in the lawes,  
whereby the knowledge  
of it is won and had, for  
the Philosopher sayth,  
that nothing can be lo-  
ued except it be knowen.  
And therefore Quinti-  
lian the Oratour sayth,  
That happie should artes  
bee, if artificers onely  
were Iudges of them.  
As for that which is vn-  
known, it is wont not  
onely not to be loued, but  
also to be dispised. And  
therefore a certaine poet  
thus sayth:

The plowman doth de-  
spise and skof,

The thing he is not skil-  
full of.

And

And thys is the saying  
not of plowmen alone,  
but also of learned and  
right skilfull men. For  
if vnto a naturall Philo-  
sopher, that neuer studied  
the Mathematicall scien-  
ces, a supernaturall phi-  
losopher should say, that  
this science considereth  
thinges seuered from all  
matter and moouing, ac-  
cording to their substan-  
ciall being and reason: or  
the Mathematicall man  
should say that this sci-  
ence considereth thinges  
ioyned to matter, and mo-  
uing, after their substance,  
but seuered according to  
reason: both these, though  
Philosophers, will the  
naturall philosopher,  
which neuer vnderstood  
thynges seuered from  
matter and motion, either

Et nō coloni solum  
vox hęc est, sed &  
doctorū peritissimo-  
rum quoq; virorum.  
Nam si ad Philoso-  
phum naturālē qui  
in Mathemat. nun-  
quam studuit, meta-  
phisicus dicat, quod  
sciētia sua cōsiderat  
res separatas ab om-  
ni materia & motu  
secundum esse et se-  
cundū rationē: Vel  
Mathematic⁹ dicat,  
q̄ sua sciētia consi-  
derat coniunctas  
materiam, & motui,  
secundū esse, sed se-  
paratas secundū ra-  
tionē: Ambos hos, li-  
cet philosophos, phi-  
losophus ille natura-  
lis qui nunquā nouit  
res aliquas separatas  
a materia & motu,  
essentia



*Fortescue, in commendation*

essentia vel ratione,  
spernet, eorumque  
scientias, licet sua  
scientia nobiliores,  
ipse deridebit, non  
alia ductus causa,  
nisi quia eorum sci-  
entias ipse penitus  
ignorat. Sic & tu,  
Princeps, legis An-  
glie peritum mira-  
beris, si dicat, quod  
frater fratri sibi ne-  
quaquam vterino,  
non succedet in he-  
reditate paterna, sed  
potius hereditas il-  
la, sorori integri san-  
guinis sui descen-  
det, aut capitali dño  
feodi accidet vt es-  
caeta sua: Cum cau-  
sam legis hui⁹ tu ig-  
nores, in lege tamen  
Anglie doctū, huius  
casus difficultas nul-

in being or in reason, vt-  
terly despise, and their  
sciences, though in deepe  
more excellent then hys,  
will he laugh to scozne,  
moued so to doe by none  
other cause, but that he  
is altogether ignorant in  
their sciences. Likewise  
you, most worthy Prince,  
would wonder at one  
skilfull in the Lawes of  
England, if he should say,  
that the brother shall not  
succeed his halfe brother  
in theyr fathers inheri-  
tance, but rather his inhe-  
ritance shal descend to the  
sister of the whole blood,  
or els it shall be inticuled  
to the chiefe Lord of the  
fee as his escheat: Hereat  
you would much maruel,  
because you know not the  
cause of this law, howbeit  
the difficultie of this case  
nothing

nothing troubleth him  
that is learned in y<sup>e</sup> lawes  
of England. Therefore  
it is a cōmon saying, that  
an Art hath no foe but an  
ignorant person;

But God forbid, O noble  
prince, that you should be  
an enemy to the Lawes  
of that Royalme, which  
you shall by succession in-  
herite: or that you shoulde  
despise them, seeing that  
y<sup>e</sup> afore cited text of scrip-  
ture instructeth you to the  
loue of Justice. There-  
fore, most Soueraigne  
Prince, I doe with most  
earnest affection require  
you to learne the lawes of  
your fathers kingdome,  
whom you shall succede,  
not only to the intent you  
mave the rather auoyde  
these inconueniences,

latenus perturbat.  
Quare & vulgari-  
ter dicitur: quod  
ars non habet ini-  
micum nisi ignoran-  
tem.

Sed absit a te, fi-  
li Regis, vt ini-  
miceris legibus reg-  
ni, quo tu suc-  
cessurus es, vel vt  
eas spernas, quum  
iustitiam dilige-  
re, prædicta sapi-  
entia lectio te eru-  
diat. Iterum igitur  
atque iterum,  
Princeps inclitissi-  
me, te adiuro, vt  
leges Regni pa-  
tris tui, cui success-  
urus es, addiscas.  
Ne dum vt in-  
conuenientias has  
tu euites.

C. j.

quia



*Fortescue, in commendation*

quia mens humana, quæ naturaliter bonum appetit, & nihil potest appetere, nisi sub ratione boni, mox ut per doctrinam bonum apprehenderit, gaudet & illud amat, ac quanto deinceps illud plus recordatur, tanto amplius delectatur in eodem, quo doceris, quod si leges prædictas, quas iam ignoras, intellexeris per doctrinam, cum optimæ illæ sint, amabis eas. Et quanto plus easdem mente pertractaueris, delectabilius tu frueris.

but also because mans minde, which naturallye desireth the thing that is good, & can desire nothing but in respect that it is good, as soone as by learning it hath taken hold of that which is good, it becommeth ioyfull and loueth the same: & the more that it is afterward occupied in the remembrance of the same, so much it is more delighted therein: Whereby you are taught yf you once by learning attain to y understanding of y foresaid lawes, wherein you are now ignorant, seeing they bee perfectly good, you must needs loue the. And y more y you record the in your mind, so much y more delight & pleasure shall you haue in the.

For

For whatsoever it is y  
is loued, the same draw-  
eth the louer of it into the  
nature therof. So that as  
the Philosopher saith, vse  
or exercise becommeth an  
other nature: So a slippe  
of a Peare tree beeing  
grafted into the stocke of  
an Apple tree, after that  
it hath taken, it so draw-  
eth the apple tree into the  
nature of the peare tree, y  
they both for euer after  
are rightly called a peare  
tree, and doe bring forth  
the fruite of a peare tree.  
In like sorte continuall  
vse and practise of vertue  
causeth a full perfection  
thereof, in so much that  
the practiser of the same  
is afterward named ther-  
by: as a man indued with

Nam omne, quod  
amatur, visu tra-  
hit amatorem su-  
um in naturam e-  
ius. Vnde, vt di-  
cit Philosophus,  
vsa altera fit na-  
tura: sic ramuncu-  
lus pyri, stipiti po-  
mi insertus, post-  
quam coaluerit,  
ita pomum trahit  
in naturam pyri,  
vt ambæ deinceps  
merito pyrus  
appellantur, fruc-  
tusque producant  
pyri. Sic & visita-  
ta virtus habitum  
generat, vt vtens  
ea deinde a vir-  
tute illa deno-  
minetur, quo mo-  
destia præditus,  
C.ij. vsu



*Fortescue, in commendation*

usu modestus nominatur, continentia continens, & sapientia sapiens. Quare & tu princeps, postquam iustitia delectabiliter functus fueris, habitumque legis indutus fueris, merito denominaberis iustus, cuius gratia tibi dicetur, dilexisti iustitiam, quo & odisti iniquitatem, propterea unxit te dominus deus tuus oleo letitie præ confortibus tuis regibus terre. modestie, of the vse thereof is named modest, & that vseth continence is called continent, and one garnished with wisdom is called wise. Therefore you also, most myghtye prince, when you are pleasantly delected in Justice, and therewith indued, in respect of the perfectiõ of the law you shal worthily be called Just, For which cause it shalbe saide vnto you: Thou hast loued Justice & hated iniquity, and therfore the lord thy God hath annointed thee with the oyle of gladnes aboue the Kinges of the earth thy companions.

*¶ Here the Chauncellour briefly repeteth  
the effect of all his perswasion. Cap. 6.*

**N**Owe, most gracious  
Prince, is not al this  
inough to mooue your  
Highnesse to the studie of  
the Lawe? Seeing that  
thereby you shall indue  
your selfe with Justice,  
which shall yeelde vnto  
you the name of a iust  
man, And shall also es-  
chewe the infamie of ig-  
norance in the Lawe,  
And further by the Lawe  
you enioying felicitie,  
shall be blessed in this life,  
And finally beeing furni-  
shed with a louing feare,  
which is the wisdom of  
God, you shall obtaine  
and possesse Charitie,  
which is a stedfast loue to  
Godwarde, and by the  
meane thereof cleauing  
to God, you shall by the  
Apostles saying be made  
one Spirite with him.

**N**onne tunc,  
Princeps sere-  
nissime, hæc te sa-  
tis concitant ad Le-  
gis rudimenta? cum  
per ea iustitiam in-  
duere valeas: quo  
& appellaberis iu-  
stus, ignorantia  
quoque legis cui-  
tare poteris igno-  
miniam: ac per le-  
gem foelicitate fru-  
ens, beatus esse po-  
teris in hac vita, &  
demum filiali timo-  
re indutus, qui Dei  
sapientia est, chari-  
tatem, quæ amor  
in deum est imper-  
turbatus, conse-  
queris, qua Deo  
adhærens, per A-  
postoli sententiam,  
fies vnus spiritus  
cum eo.

C.iiij.

Sed



Fortescue, in commendation

Sed quia ista, sine gratia lex operari nequit, tibi illam super omnia implorare necesse est, legis quoque diuinæ & sanctorum scripturarum indagare scientiam.

Cum dicat scriptura sacra, quod vani sunt omnes, in quibus non subest scientia dei, Sapientiæ cap. xiiij.

Hic igitur, princeps, dum adolescens es, & anima tua velut tabula rasa, depinge eam, ne in futurum, ipsa figuris minoris frugis delectabilius depingatur.

Quia etiam (vt sapiens quidam ait)

But forsomuch as the Lawe without grace cannot accomplish these things, it is necessary and requisite, that aboue all thinges you make earnest intercession for it: and also that you become a studious sercher of Gods law, and of the holy scripture. For scripture sayth, that all men are vaine, in who is not the knowledge of God, in the xiiij. chapter of the booke of Wisedome. Wherefore, most Noble Prince, while you are yet young, & while your soule is as it were a smoothe blanke table, write in it these things, least hereafter you happen to take pleasure in writing lesses of lesse profit therein.

For as a certeine wise man sayth:

Where

Whereof the vessell new,  
did first receaue the tast,  
Therein, when it is old,  
the sent wil euer last.

*Quod noua testa ca-*  
*pit,*

*Inueterata sapit.*

That handicraftes man  
doth so negligently regard  
the profite of his childe,  
whom, whiles he is yong,  
he will not see brought vp  
in such an occupation, as  
therby he may afterward  
obtaine to leade a merrye  
life: So the carpenter tea-  
cheth his son to cut with  
an axe: the smith to strike  
with an hammer: & whom  
hee entendeth to make a  
spirituall minister, him he  
procureth to bee trained  
vp in learning: So like-  
wise is it conuenient, that  
a kings sonne, which shall  
gouerne the people after  
his father, be in his youth  
instructed in the lawes.

Quis Artifex tam  
negligens profectus  
suae prolis est,  
vt non eam, dum  
pubescit, artibus in-  
struat, quibus postea  
vitae solatia nancif-  
catur? Sic lignarius  
faber secare dola-  
bro, ferrarius ferire  
malleo, filium in-  
struit: & quem in  
spiritualibus mini-  
strare cupit, literis  
imbui facit: Sic &  
principi, filium su-  
um, qui post eum  
populum regulabit,  
legibus instrui, dum  
minor est, conue-  
nit.

C.iiij.

Qualiter



*Fortescue, in commendation*

Qualiter si fecerint  
rectores orbis, mū-  
dus iste ampliori,  
quam iam est, iusti-  
tia regeretur, qui-  
bus, si tu, vt iam  
hortor, facias, exem-  
plum nō minimum  
ministrabis.

Which order if the Ru-  
lers of the worlde would  
obserue, then the worlde  
should bee gouerned with  
much moze Justice then  
now it is, Unto whom, if  
you will followe mine ex-  
hortation, you shall mini-  
ster no small example.

*Now the Prince yeeldeth himselfe to the stu-  
die of the Lawes, though he be yet  
disquieted with certaine  
doubtes. Ca. 7.*

Silente extrunc  
Cancellario,  
Princeps ipse sic  
exorsus est. Vi-  
cisti me, vir egre-  
gie, suauissima o-  
ratione tua, qua  
& animum meum

Thus when the Chaun-  
celloz had said, he held  
his peace, to whome the  
Prince began on this wise  
to speake, You haue ouer-  
come mee, welbeloued  
Chauncellour, with your  
most pleasant talk, wher-  
with you haue inflamed  
my

my minde with a fer-  
uent desire towarde the  
knowledge of the Lawe.  
Howbeit twoo thinges  
there bee, that doe tolle  
my mynde to and fro,  
and so disquiet it, that  
lyke a Shyppe in the  
ragyng waues it know-  
eth not whiche waye to  
enclpne for ease. The  
one is, whyle it conside-  
reth howe manie yeares  
the students of the lawes  
bestowe therein, befoze  
they canne attaine to suf-  
ficient knowledge of the  
same: Whiche causeth  
my minde also to dreadd,  
leaſte that I ſhould like-  
wyle ſpende the yeares  
of my youthe. The o-  
ther is, whether I ſhall  
applye my ſelfe to the  
ſtudie of the Lawes of  
Englande, or of the Ci-

ardore non mini-  
mo, legis feciſti ſi-  
tate documenta. Sed  
tamen duobus, me  
huc illucque agi-  
tantibus, animus  
ipſe affligitur: vt  
tanquam in turbi-  
do mari cimba, neſ-  
ciat quorſum diri-  
gere proras. Vnum  
eſt, dum recolit  
quot annorum cur-  
riculis leges addiſ-  
centes, earum ſtu-  
dio ſe conferunt,  
antequam ſuffici-  
entem earundem  
peritiam nanciſcan-  
tur: quo timet ani-  
mus ipſe, ne con-  
ſimiliter ego præ-  
teream annos iu-  
uentutis meæ. Al-  
terum eſt, an An-  
glię Legum vel Ci-  
uiliū,



*Fortescue, in commendation*

uiliū, quæ per orbem percelebres sunt, studio operam dabo. Nam non nisi optimis legibus populum regere licet, etiam ut dicit Philosophus, *Natura deprecatur optima*, Quare libenter super his, quid tu consulis, auscultaremus. Cui Cancellarius. Non sunt hæc, fili Regis, tantis celata mysterijs, ut deliberatione egeant ingenti, quare, quid in his mihi visum est prodere, nõ differemus.

uile laws, which through out the whole Worlde are chieflie esteemed: For people may not bee gouerned but by righte good Lawes, and as the Philosopher sayth, nature coueteth that which is best. Therefore I would gladly heare your counsell in this behalfe. To whom the Chauncelour made this aunswere. These matters, O kings sonne, are not hidde vnder so deepe and darcke mysteries, that they require anye greate deliberation, or aduiselement. And therefore what I thinke best herein I will not hyde.

*So much knowledge of the Law as is necessary for a Prince, is soone had.* Chap. 8.

Aristotle

**A**ristotle in the firste Booke of his naturall Philosophie saith, that then we suppose our selues to haue the knowledge of euerye thinge, when wee know the causes and beginnings thereof euen to the principles, vppon the whiche certe the commentatour saith, that the Philosopher by beginninges or principles did vnderstand the causes efficient, by the terme Causes he vnderstoode causes finall, and by Elementes, matter and forme. But in the Lawe there are not matter and forme, as in thinges naturall and compounde. How be it there be in them certeine Elements, out of y which they proceede as out of

**P**hilosophus in primo Phisicorum dicit, quod tunc vnumquodque scire arbitramur, cum causas & principia eius cognoscamus usque ad elementa. Super quem textum commentator dicit, quod Aristoteles per principia intellexit causas efficientes, per causas intellexit causas finales, & per Elementa materiam & formam. In legibus vero non sunt materia & forma, vt in Phisicis & compositis. Sed tamen sunt in eis Elementa quedam, vnde ipsæ profluunt, vt ex materia



*Fortescue, in commendation*

materia & forma,  
quæ sunt consue-  
tudines, statuta, &  
ius naturæ, ex qui-  
bus sunt omnia iu-  
ra regni, vt ex ma-  
teria & forma sunt  
quæque naturalia:  
& vt ex literis, quæ  
etiam elementa ap-  
pellantur, sunt om-  
nia quæ leguntur.  
Principia autem,  
quæ Commenta-  
tor dicit esse cau-  
sas efficientes, sunt  
quædam vniuer-  
salia, quæ in legi-  
bus Angliæ docti,  
similiter & Mathe-  
matici, maximas  
vocant: Rethori-  
ci, Paradoxas: &  
Ciuilistæ, Regulas  
iuris denominant.  
Ipsa reuera non

matter and forme, these  
are customes, statutes, &  
the Law of nature, of the  
which al the lawes of the  
realme haue their begin-  
ning, euen as all naturall  
thinges haue of matter &  
forme, and as all things  
that are witten and read  
do consist of letters, which  
also are called elements.  
But principles, or be-  
ginnings, whiche are as  
the Commentary sayeth,  
causes efficient, they are  
certeine vniuersall propo-  
sitions, which they, that be  
learned in the Lawes of  
Englande, & likewise the  
Mathematicals do terme  
Maximes: the Rhetorici-  
ans doe call the same Pa-  
radoxes: & the Ciuilians  
terme them rules of the  
law. These in deede can-  
not be proued by force of  
argu-

arguments, or by demon-  
strations logicall: But  
as it is said in the second  
booke of Posterior, they  
are knowen by induction  
by the way of sense and  
memozie. Wherefore in  
the first booke of his na-  
turall Philosophy, Ari-  
stotle sayth, that prin-  
ciples are not made of  
others, nor one of them of  
an other, but all other be  
made of them, And accord-  
ing thereunto in the first  
booke of his Topikes he  
writeth, that every prin-  
ciple is a sufficient prooffe  
of it selfe. And there-  
fore the Philosopher  
saith, that such as denie  
them, ought not to be dis-  
puted or reasoned with-  
all: because that as he  
writeth in the sixth booke  
of his Moral philosophy,

argumentorum vi,  
aut demonstratio-  
nibus logicis dig-  
noscuntur: Sed vt  
secundo *Posteriorum* docetur, in-  
ductione, via sen-  
sus & memoriz, a-  
dipiscuntur. Quare  
& primo phisico-  
rum philosophus  
dicit, quod princi-  
pia non fiunt ex a-  
lijs: neque ex al-  
terutris, sed ex illis  
alia fiunt, quo pri-  
mo *Topicorum* scri-  
bitur, quod vnum-  
quodque principi-  
orum est sibi ipsi  
fides. Vnde, cum  
negantibus ea, dicit  
Philosophus, non  
est disputandum:  
quia, vt scribi-  
tur vj. *Ethicorum*,  
ad



*Fortescue, in commendation*

*ad principia non est ratio.* Igitur principijs imbuendi sunt, qui gliscunt aliquas intelligere facultates. Ex eis etenim, reuelantur causa finales, ad quas, rationis ductu, per principiorum agnitionem, peruenitur, vnde, his tribus, videlicet, principijs, causis, & elementis, ignoratis, scientia, de qua ipsa sunt, penitus ignoratur. Et his cognitis, etiam scientiam illam cognitam esse, non determinatè, sed in confuso &

there is no reason to be giuen for principles. Wherefore what soeuer they be that couet to profite in the knowledge of any faculties, they must needes first be furnished with principles. For by them are opened the causes finall, vnto the which by the direction of reason, through the knowledge of the principles, we do attaine, wherefore these three, viz. principles, causes, and elements, being vnknown, the science, whereof they are, is altogether vnknown. And the same three being known, the science also, whereof they are, is thought to be known, not determinatly or precisely, but superficially after

after a confuse and vni-  
uersall sort.

Thus we thinke our  
selues to haue the know-  
ledge of Gods lawes,  
when wee vnderstand  
our selues to know sayth,  
charitie, and hope, and  
also the Sacramentes  
of the Church, and the  
Commaundementes of  
G D D, leauing to the  
Prelates of the Church  
the other mysteries of  
theologie. Wherefore  
the LORD sayth vnto  
hys Disciples: To you  
it is giuen to knowe  
the mysterie of the king-  
dome of G D D, but to  
other in Parables, that  
sleeping they may not  
see &c. And the Apostle  
sayth, Not to bee wy-  
ser, then it behooueth.  
And in an other place,

vniuersaliter arbi-  
tratur.

Sic Legem diui-  
nam nos nosse in-  
dicamus, dum fi-  
dem, charitatem,  
& spem, sacramen-  
ta quoque Eccle-  
siae, ac Dei man-  
data, nos intelli-  
gere sentiamus, ce-  
tera theologiae my-  
steria Ecclesiae pre-  
sidentibus relin-  
quentes. Quare  
dominus discipulis  
suis ait: Vobis da-  
tum est nosse my-  
sterium regni Dei,  
ceteris autem in pa-  
rabolis, vt viden-  
tes non videant,  
&c. Et Apostolus  
dixit, non plus sa-  
pere quam oportet  
sapere. Et alibi,  
non



*Fortescue, in commendation*

non alta sapientes. Sic & tibi, Princeps, necesse non erit ministeria legis Angliæ longo disciplinatumare, sufficiet tibi, vt in grammatica tu profecisti, etiam & in legibus proficias. Grammaticæ vero perfectionem, quæ ex Etimologia, Ortographia, Profodia, & Syntaxi, quasi ex quatuor fontibus profluit, non specie tenus induisti, & tamen gramatica sufficienter eruditus es, ita vt merito grammaticus denomineris. Consimiliter quoq; denominari legista mereberis, si legum principia

Not being hygh in wisdom. In lyke maner, O most worthy Prince, it shall not bee needfull for you with long studie to search out the secreat mysteries of the Law of England; It shall suffice for you, as you haue profited in grammer, so also to profite in law. Unto the perfection of Grammer, springing out of Etimologie, Orthographie, Prosodie, and Construction, as out of fowre fountaines, you haue not exactly attayned, and yet you are so sufficiently groundd in grammer, that you may well be called a Grammarian. Likewise shall you bee well worthy to be called a Lawer, if you search out the principles  
and

and causes of the lawes, euen to the elements, after the manner of a scholar or a learner. For it shall not be needefull or expedient for you, by the trauell of your owne wit, to studie out the hid misteries of the law, But let that geare be left to your iudges and men of law, which in the royaltie of England are called Serfautes at Lawe, and to other professours of the Lawe commonly called apprentices: For you shall better execute iudgements by other, then by your selfe: Neither hath it beene seene that any King of Englands hath pronounced iudgement with his own mouth, And yet neuerthelesse the iudgements of the

& causas, vsq; ad elementa, discipuli more indagaueris. Non enim expediet tibi, propria sensus indagine, legis sacramenta rimare, sed relinquantur illa iudicibus tuis & aduocatis, qui in regno Angliæ seruientes ad legem appellantur, similiter & alijs peritis, quos apprenticios vulgus denominat: melius enim per alios, quam per te ipsum iudicia reddes, quo, proprio ore, nullus regum Angliæ iudicium proferre visus est, & tamen sua sunt omnia iudicia reg-

D.j.

ni



*Fortescue, in commendation*

ni licet per alios ip-  
sa reddantur, sicut &  
Iudicū omniū sen-  
tentias, Iosaphat af-  
feruit esse iudicia  
dei. Quare, tu prin-  
ceps serenissime,  
paruo tempore, par-  
ua industria, suffici-  
enter eris in legibus  
regni Angliæ erudi-  
tus, dummodo ad e-  
ius apprehensionem  
tu conferas animum  
tuum. Dicit namq;  
Seneca in epistola  
ad Lucillum: *Nil  
est, quod pertinax o-  
pera, & diligens cu-  
ra, non expugnat.*  
Nosco namque in-  
genij tui perspicua-  
citātē, quo audact'  
pronuncio, quod in  
legibus illis, li-  
cet earum peritia,

royalme are his, though  
by other they bee utte-  
red and pronounced,  
Lyke as also King Io-  
saphat affirmed the sen-  
tences of all the Iud-  
ges to bee the iudgments  
of G D D. Wherefore,  
most gracious Prince,  
you shall in short time  
with lyttle labour bee  
sufficientlye learned in  
the Lawes of Englande,  
so that you doe applye  
your mynde to the obtai-  
ning thereof. For Se-  
neca in an Epistle to Lu-  
cillus sayeth: There is  
nothing which earnest  
travaile and diligent care  
atchieueth not. And  
so well doe I knowe the  
prompte towardnesse of  
your nature, that I dare  
bee bolde to saye, that in  
those Lawes (though the  
exact

exact knowledge of them  
such as is required in iud-  
ges can (kant bee gotten  
in the space of xx. yeares)  
you shal sufficiētly in one  
peare attaine to so muche  
vnderstanding, as is con-  
uenient for a prince. Nei-  
ther in the meane tyme  
shall you neglect & omitte  
the studie of martiall dis-  
cipline, whereunto you  
are so feruently geuen,  
but during all the same  
yere in steede of recreatiō  
you shall vse the practise  
thereof at your pleasure.

qualis iudicibus ne-  
cessaria est, vix xx.  
annorum lucubra-  
tionibus acquira-  
tur, tu doctrinam  
principi congruam  
in anno vno suffici-  
enter nancisceris,  
nec interim mili-  
tarem disciplinam,  
ad quam tam ar-  
denter anhelas, neg-  
liges, sed ea, re-  
creationis loco, e-  
tiam anno illo, tu  
ad libitum perfru-  
eris.

*A King, whose gouernement is politike, can not  
change the Lawes of his realme.*

Cap. 9.

**T**He second point, most  
worthy prince, wherof  
you stand in feare, shall in

**S**ECUNDUM vero,  
princeps, quod  
tu formidas, con-  
D.ij. simili-



*Fortescue, in commendation*

simili nec maiori o-  
pera elidetur. Dubi-  
tas nempe, an An-  
glorum legū, vel ci-  
uiliū studio te cō-  
feras, dum Ciuiles  
supra humanas cūc-  
tas leges alias, fama  
per orbem extollat  
gloriosa. Non te cō-  
turbet, fili regis, hęc  
mentis euagatio :  
Nam non potest  
rex Angliæ, ad libi-  
tum suū, leges mu-  
tare regni sui. Prin-  
cipatu namque, ne-  
dum regali, sed &  
politico, ipse suo  
populo dominatur.  
Si regali tantū ipse  
præesset eis, Leges  
regni sui mutare  
ille posset, tallagia  
quoque & cæte-  
ra onera eis im-

like maner, and as easely  
as the other, be confuted.  
For you stande in doubt,  
whether it bee better for  
you, to geue your mind to  
the studie of the lawes of  
England, or of the Ciuile  
lawes, because they thro-  
ugh out the whole world  
are auaunced in glozy and  
renowne aboue all other  
mans lawes. Let not this  
scruple of minde trouble  
you, O most noble p̄ince:  
For the king of England  
cannot alter nor chaunge  
the lawes of his royalmē  
at his pleasure. For why,  
he gouerneth his people  
by power, not only royal,  
but also politique. If his  
power ouer thē were roy-  
all onely, then hee might  
change y<sup>e</sup> lawes of his roy-  
alm, & charge his subiects  
w<sup>th</sup> allage, & other burdēs  
without

without their consent, and such is the dominion, that the ciuill Lawe purpoze, when they say the Prince his pleasure hath the force of a Law. But from this, much differeth the power of a king, whose gouernement ouer his people is politique, For he can neither change Lawes without the consent of his subiects, nor yet charge them with straunge impositions against their willes, Wherefore his people do frankely and freely enioye and occupye their owne goods, being ruled by such lawes as they themselues desire, Neither are they pill'd either of their owne king or of any other, Like pleasure also & freedom haue the subiectes of a king ruling only by power royal, so long as hee falleth not

ponere ipsis incon-  
sultis, quale domini-  
um denotant leges  
ciuiles, cum dicant  
*quod principi placuit,  
legis habet vigorem.*  
Sed longe aliter po-  
test Rex, politice im-  
perans genti suæ,  
quia nec leges ipse  
sine subditorum as-  
sensu mutare pote-  
rit, nec subiectum  
populum renitentē,  
onerare impositio-  
nibus peregrinis,  
quare populus eius  
libere fruetur bonis  
suis, legibus, quas  
cupit, regulatus, nec  
per Regem suum  
aut quemuis alium  
depilatur, consimi-  
liter tamen plaudic  
populus, sub Re-  
ge regali tantum  
principante, dum-  
D.iiij. modo



*Fortescue, in commendation*

modo ipse in tyrannidem non labatur. De quali rege dicit Philosophus iij. politicorum, quod melius est Civitatem regere viro optimo, quam lege optima. Sed quia non semper contingit præsidentem populo, huiusmodi esse virum, sanctus Thomas in libro, quem Regi Cipri scripsit, de regimine principum, optare cēsetur, regnum sic institui, ut rex non libere valeat populum tyrannide gubernare, quod solum fit, dum potestas Regia lege politica cohibetur: Gaude igitur princeps optime, talem esse legem regni, in into tyrannye. Of such a King speaketh Aristotle in the third Booke of his Ciuill Philosophie, saying, that it is better for a Citie to bee gouerned by a good King, then by a good Lawe. But forsomuch as a King is not euer such a man, therfore Saint Thomas in the Booke, which hee wrote to the king of Cyprus, of the gouernance of Princes, wisheth the state of a Realme to bee such, that it may not be in the kinges power to oppresse his people with tyrannie; Which thing is perfourmed onely, while the power Royall is restrayned by power politique. Reioyce therefore, O soueraigne Prince, and be gladd, that the Lawe of your Realme, wherein you

you shall succcede, is such,  
For it shall exhibite and  
minister to you and your  
people no small securitie  
and comfozte. With such  
Lawes as sayth the same  
Saint Thomas shoulde  
all mankinde haue beene  
gouerned, if in Paradise  
they had not transgressed  
Gods commaundement,  
with such Lawes also  
was the Synagogue ru-  
led, while it serued vn-  
der God onely as king,  
who adopted the same to  
him for a peculiar king-  
dome, But at the last,  
when at their request they  
had a man king sett ouer  
them, they were then vn-  
der royall Lawes onely  
brought verpe lowe.  
And yet vnder the same  
Lawes. while good  
kinges were their Ru-  
lers, they liued wealthily,

quo tu successurus  
es, quia, & tibi, &  
populo, ipsa securi-  
tatem præstabit non  
minimam & sola-  
men. Tali lege, vt  
dicit idem sanctus,  
regulatū fuisset to-  
tum genus huma-  
num, si in paradiso  
Dei mandatum nō  
præterijisset, tali eti-  
am lege regebatur  
synagoga, dum sub  
solo Deo, Rege, qui  
eam in regnum pe-  
culiare adoptabat,  
illa militabat, sed  
demum, eius peti-  
tione, rege homi-  
ne sibi constituto,  
sub lege tantum  
Regali ipsa deinceps  
humiliata est.  
Sub qua tamen,  
dum optimi Reges  
sibi præfuerunt,  
D.iiij. ipsa



*Fortescue, in commendation*

ipsa plaussit, & dum discoli ei præsebant, ipsa incôsolabiliter lugebat, vt regum liber hæc distinctius manifesta-uit. Tamen quia de materia ista in opusculo, quod tui contemplacione de naturalis legis naturæ exarauī, sufficienter puto me disceptasse, plus inde loqui iam desisto.

and when wilfull and tyrannous Kinges had the gouernment of them, then they continued in great discomfort and misery, as the booke of Kinges doth moze plainly declare. But for so much, as I suppose, I haue sufficiētly debated this matter in my worke which at your request I compiled of the nature of the law of nature, therfore at this time I surcease to speak thereof any moze.

*Here the Prince demaundeth a question. Ca. 10.*

**T**Vnc princeps illico sic ait. Vnde hoc, cancellarie, quod Rex vnus plebem suam regaliter tantū regere valeat, & regialteri potestas huiusmodi denegatur, æqualis fastigij cum sint Reges

**I**mmediately the Prince thus saide. How cometh this to passe, good Chauncellour, that one King may gouerne his people by power Royall onely, & that another king can haue no such power, seeing both these Kinges are in dignitie equal,

I cannot chole but much ambo, cur in pote-  
muse & marueile why in state sint ipsi dis-  
power they shoulde thus pares, nequeo non  
differ. admirari.

*The aunswer to this question is here omitted, for  
that in an other worke it is handled at*

*large.*

*Chap. I I.*

I Haue sufficiencly, quod  
the Chauncelloz, decla-  
red in my foresaid worke,  
that the King, whose go-  
uernmēt is politike, is of  
no lesse power, thē he that  
royally ruleth his people  
after his owne pleasure,  
howbeit they differ in  
aucthority ouer their sub-  
iects, as in the same worke  
I haue shewed, and say I  
still. Of which difference  
I will open vnto you the  
cause as I can.

*How kingdomes ruled by royal gouernement  
only, first began.*

*Chap. I 2.*

**M**En in times passed,  
excelling in power,

**C**Ancellarius. Nō  
minoris esse po-  
testatis, regē politi-  
cē imperantē, quam  
qui, vt vult, regaliter  
regit populū suum,  
in supradicto opus-  
culo sufficienter est  
ostēsum, diuersa ta-  
mē auctoritatis eos  
in subditos suos ibi-  
dē vt iam nullaten⁹  
denegauī, cuius di-  
uersitatis causam, vt  
potero, tibi pādam.

**H**Omīnes quon-  
dam, potentia  
præpol-



præpollentes, auidi  
dignitatis & glorię,  
vicinas sæpe gentes  
sibi viribus subiuga-  
runt, ac ipsis seruire,  
obtemperare quoq;  
iussionibus suis, cõ-  
pulerunt, quas iussio-  
nes, extunc leges ho-  
minib<sup>9</sup> illis esse ipsi  
fancierunt. Quarum  
perpetione diutina,  
subiectus sic popu-  
lus, dũ per subijciẽ-  
tes à ceterorũ iniu-  
rijs defendebatur, in  
subijciẽtium domi-  
nium cõsentierunt:  
Oportunius esse ar-  
bitrãtes, se vni<sup>9</sup> sub-  
di imperio, quo er-  
ga alios defenderẽ-  
tur, quam omnium  
eos infestare volen-  
tium oppressionib<sup>9</sup>  
exponi. Sicq; regna

greedy of dignitie & glozy,  
did many times by plaine  
force subdue vnto them  
their neighbors y<sup>n</sup> nations  
adjoining: & cõpelled the  
to do them seruice & to o-  
bey their cõmandements,  
which commaundements  
afterward they decreed to  
be vnto those people very  
lawes. And by long suffe-  
rance of the same, the peo-  
ple so subdued, beyng by  
their subduers defended  
frõ the iniuries of other,  
agreed and consented to  
liue vnder the dominio of  
the same their subduers,  
thinking it better for the  
to be vnder the empire of  
one man, which might be  
able to defend the against  
other, then to be in daun-  
ger to be oppressed of all  
such as would violently  
offer them any wrong.  
And

And thus certeine king-  
domes were begon, And  
those subduers thus ru-  
ling the people vnto them  
subdued, tooke vpon them  
of ruling to be called ru-  
lers, which our language  
tearmeth kinges, And  
their rule or dominiō was  
named only roial or king-  
ly. So Nemroth was  
the first that got vnto him  
selfe a kingdome, And yet  
in the holy Scriptures  
he is not called a King,  
but a stout or mightie hū-  
ter befoze the Lord: For  
like as a Hunter subdu-  
eth wilde beastes liuing  
at their libertie, so did he  
bring men vnder his obe-  
diēce. So did Belus sub-  
due the Assiriās, & Ninus  
the most part of Asia. So  
also vpd the Romaynes  
vsurpe the Empire of the

quædam inchoata  
sunt, & subijcientes  
illi, dum subiectum  
populum sic rexe-  
runt, a regendo sibi  
nomen regis vsur-  
parūt, eorum quoq;  
dominatus tantum  
regalis dict<sup>9</sup> est. Sic  
Nēbroth primus si-  
bi regnum cōpara-  
uit, tamen non rex,  
ipse, sed Robustus  
venator corā domi-  
no sacris literis ap-  
pellatus est: Quia, vt  
venator feras liber-  
tate fruētes, ipse ho-  
mines sibi compes-  
cuit obedire. Sic  
Belus Assirios: &  
Ninus quam mag-  
nam Asiæ partem,  
ditioni suæ subege-  
runt. Sic & Roma-  
ni orbis imperium  
vsurpa-



*Fortescue, in commendation*

vsurparunt qualiter  
ferè in omnibus gē-  
tibus regna inchoa-  
ta sunt. Quare, dum  
filij Israel regē po-  
stulabant, sicut tunc  
habuerunt omnes  
gentes, dominus in-  
de offensus, legem  
regalē eis per Pro-  
phetam explanari  
mandauit. Quæ nō  
aliud fuit, quam pla-  
citum regis eis præ-  
essentis, vt in pri-  
mo Regū libro ple-  
nius edocetur. Ha-  
bes nunc (ni fallor)  
princeps clarissime,  
formā exordij reg-  
norū, regaliter pos-  
sessorum. Quare,  
quomodo regnum  
politice regulatum,  
primitus erupit, e-  
tiam iam propalare

whole world, and thus al-  
most were the kingdoms  
of all nations begonne.  
Wherefore the lord, being  
displeased w<sup>th</sup> the childrē of  
Israell requiring to haue  
a king, as thē all other na-  
tions had, cōmaunded the  
law regall to be declared  
vnto thē by the Prophet.  
Which law regal was no  
other thing, but the plea-  
sure of the king their go-  
uernor, as in y<sup>e</sup> 1. booke of  
the kings more fully it is  
cōtained. Now you vnder-  
stand, as I suppose, most  
noble prince, the forme &  
fassiō of the beginning of  
those kingdomes, y<sup>e</sup> be re-  
gally possessed and ruled.  
Wherefore, now I wil as-  
say to make plaine to you,  
how & by what meanes y<sup>e</sup>  
gouernmēt of y<sup>e</sup> kingdom  
politique, tooke his firste  
entrance

entrance & beginning, to the ende and intent, that, when you know the beginnings of them both, it may be right easie for you therby to discern the cause of the diuersity, which in your question is cōteined.

conabor, vt cognitis amborum regnorum initijs, causam diuersitatis, quam tu quæris, inde elicere tibi facillimum sit.

*How Kingdomes of politique gouernance were first begon.* Cap. 13.

Saint Augustine in the xliii. chapter of his xix. booke de Ciuitate Dei, sayeth, That a people is a multytude of men associated by the consent of law, and communion of wealth. And yet such a people being headlesse, that is to say, wythout a head, is not worthy to be called a bodie. For as in thinges naturall, when the head is cutt off, the

SANCTUS AUGUSTINUS in libro xix. de Ciuitate Dei cap. xliiij. dicit, Quod populus est cætus hominũ, iuris consensu & vtilitatis cõmunione sociatus. Nec tamen populus huiusmodi, dux acephalus, (id est) sine capite, esse corpus vocari meretur. Quia vt in naturalibus, capite detruncato, residuum



*Fortescue, in commendation*

residuum non corpus, sed truncum appellamus, sic & in politicis, sine capite communitas nullatenus corporatur: Quo, primo politic. dicit philosophus, quodquādocunque ex pluribus constituitur vnū inter illa, vnum erit regens, & alia erūt recta, Quare populum se in regnū, aliudue corpus politicum erigere volētem, semper oportet vnū preficere totius corporis illius regituum, quem regem nominare solitū est. Hoc ordine, sicut ex embryone corp<sup>9</sup> surgit phisicum, vno capite regulatum, sic ex

residue is not called a bodie, but a truncheon, so likewise in thinges politique; a communaltie wythout a head is in no wise corporate: Wherefore, Aristotle in the first booke of his ciuill philosophy sayeth, that whensoever one is made of many, among the same, one shall be the ruler, and the other shal be ruled, wherefore a people that will rayse them selues into a kingdome, or into any other bodie politique, must euer appoynt one to bee chiefe ruler of the whole bodie, which in kingdomes is called a King. After thys kind of order, as out of the embryon ryseth a bodie naturall ruled by one head, euen so of a multitude

citude of people aryseth  
a kingdome, which is a  
body mysticall, ground-  
ed by one man as by an head.  
And lyke as in a naturall  
body, as sayth the Philo-  
sopher, the hart is the  
first that lyueth, hauing  
within it bloud, which it  
distributeth among all  
the other members, wher-  
by they are quickned and  
do lyue: semblably in a  
body politique, the in-  
tent of the people is the  
first lyuely thing, hauing  
wythin it bloud, that is  
to say, politike proui-  
sion for the vtilitie and  
wealth of the same peo-  
ple, which it dealeth forth  
and imparteth aswell to  
the head, as to all the  
members of the same bo-  
die, whereby the body is  
nourished & mainteyned,

populo erūpit reg-  
num, quod corpus  
extat mysticum vno  
homine vt capite  
gubernatum. Et si-  
cut in naturali cor-  
pore, vt dicit Philo-  
sophus, cor est pri-  
mum viuens, habens  
in se sanguinē, quem  
emittit in omnia e-  
ius membra; vnde  
illa vegetatur & vi-  
uunt: sic in corpore  
politico, intētio po-  
puli primum viui-  
dum est, habens in  
se sanguinem, viz.  
prouisionem politi-  
cam vtilitati populi  
illius, quam in caput,  
& in omnia mem-  
bra eiusdem corpo-  
ris, ipsa transmittit,  
quo corpus illud  
alitur & vegetatur.

Lex



*Fortescue, in commendation*

Lex vero, sub qua  
cetus hominum, po-  
pulus efficitur, ner-  
uorū corporis phi-  
fici tenet rationem:  
Quia sicut per ner-  
uos compago cor-  
poris solidatur, sic  
per legem, quę a li-  
gando dicitur, cor-  
pus huiusmodi mi-  
sticum ligatur & ser-  
uatur in vnū: et eius-  
dē corporis membra  
ac ossa, quę veritatis,  
qua communitas illa  
sustētur, soliditatē  
denotant, per legē,  
vt corpus naturale  
per neruos, propria  
retinent iura: Et vt  
nō potest caput cor-  
poris phisici, neruos  
suos cōmutare, ne-  
que mēbris suis pro-  
prias vires, & pro-  
pria sanguinis ali-

Furthermoze the law bn-  
der the which a multitude  
of men is made a people,  
represēteth the semblance  
of sinewes in the body na-  
tural: because that like as  
by sinewes the ioyning of  
the body is made sound, so  
by the law, which taketh  
the name a ligādo, that is  
to wit of bynding, such a  
mistical body is knit & pre-  
serued together: & the mē-  
bers & bones of the same  
body, wherby is represēted  
the soundnesse of y<sup>e</sup> wealth  
wherby y<sup>e</sup> body is sustay-  
ned, do by the laws, as the  
natural body by sinewes,  
retein euery one their pro-  
per functions: And as the  
head of a body natural cā-  
not change his sinewes,  
nor cannot deny or withhold  
from his inferioz mēbers  
their peculiar powers, and  
seuerall nourishments of  
blood,

blood, no more can a King, which is the head of a bodye politike, chaunge the Lawes of that bodye, nor withdrawe from the same people their proper substance against their wils and consentes in that behalfe. Nowe you vnderstande, most noble Prince, the forme of institution of a Kyngdome politique, whereby you may measure the power, which the King thereof maye exercise ouer the Law and subiectes of the same. For such a king is made & ordained for the defence of the law of his subiects & of their bodies and goods, whereunto he receiueth power of his people, so that he can not gouerne his people by

*mēta denegare, nec rex, qui caput corporis politici est, mutare potest leges corporis illius, nec eiusdem populi substantias proprias subtrahere, reclamantibus eis aut inuitis. Habes ex hoc iam, princeps, instituti omnis politici Regni formam, ex qua metiri poteris potestatem, quam rex eius in leges ipsius, aut sub itos valeat exercere. Ad tutelam nāq; legis subditorum, ac eorum corporum & bonorum, rex huiusmodi creatus est, & ad hanc, potestatem a populo effluxam ipse habet, quo ei non licet potestate*

*E. i.*

*alia*



*Fortescue, in commendation*

alia suo populo dominari: quare ut postulationi tue, qua certiorari cupis, unde hoc prouenit quod potestates regum tam diuersimode variantur succinctius satisfaciam. Firme coniecto, quod diuersitates institutionum dignitatum illarum, quas propalavi, predictam discrepantiam solummodo operantur, prout rationis discursu, tu ex premissis poteris exhaurire. Sic namque regnum anglie quod ex Bruticomitiua Troianorum, quam ex Italiae & grecorum finibus perduxit, in dominium politicum, & regale, prorupit: Sic & Scotia, quae ei

any other power. Wherefore to satisfie your request, in that you desire to bee certified, how it cometh to passe that in the powers of Kinges there is so great diuersitie: Surely in mine opinion the diuersitie of the institutions or first ordinances of those dignities, which I haue nowe declared, is the onely cause of this foresaide difference, as of the premisses by the discourse of reason you maye easely gather. For thus the Kingdome of Englande out of Brytes retinue of the Trojans, which hee broughte out of the Coastes of Italy and Greece, first grewe to a politique and regall dominion: Thus also Scotlande, which some-

Sometime was subiect to England as a Dukdome thereof, was aduanced to a politike and royall kingdome. Many other kingdomes also had thus their first beginning not onely of regall but also of politike gouernment. Wherefore Diodorus Siculus in his second booke of olde histories thus writeth of the Egyptians: The Egyptian kings liued, first not after the licentious manner of other rulers, whose will and pleasure is in steade of law, but they kept themselves as priuate persons in subiection of the laws, And this did they willingly, being perswaded that by obeying the laws they shoulde bee blessed. For of such rulers, as followed their owne lustes,

quondā vt ducatus obediuit, in regnum creuit politicum & regale. Alia quoque plurima regna, nedū regaliter sed & politice regulari, tali origine ius sortita sūt. Vnde Diodorus Siculus in secundo libro historiarū priscarum de Egyptijs sic scribit: suam primum Egyptij reges vitam non aliorum regnantium, quibus voluntas pro lege est, traducebant licentia, sed veluti priuati tenebantur legibus, neque id egreferebant, existimantes parendo legibus, se beatos fore. Nam ab his, qui suis indulgerent cupiditatibus,  
E.ij. multa



*Fortescue, in commendation*

multa censebant fieri, quibus dampna periculaq; subirent. Et in quarto libro sic scribit: Assumptus in Regem Ethiopum, vitam ducit statutam legib' omniaque agit iuxta patrios mores, neque premio neque pena afficiens quendam, præter pertraditam a superioribus legem. Consimiliter loquitur de rege Saba in felici Arabia, & alijs quibusdam regibus qui priscis temporibus feliciter regnabant. they supposed many things to be done, whereby they were brought in daunger of diuers harms & perils. And in his fourth Booke thus he writeth: The Ethiopias king as soone as he is created, hee ordereth his life according to the laws, & both al things after y<sup>e</sup> maner & custome of his countrie, assigning neither rewarde nor punishment to any man, other then the law made by his predecessours appointeth. Hee reporteth likewise of the king of Saba in Arabia the happy, & of certein other kings which in olde time honorably reigned.

*Here the Prince compendiously abridgeth all that the Chauncellor afore hath discoursed at large.*

*Cap. 14.*

**C** Vi princeps. Effugasti, Can-

**T**o whom the Prince thus answered, You have

haue, good Chauncellour, with the cleare light of your declaratiō quite driuen away the cloudy mist, wherewith the brightnes of my mind was darkned: so that I do most evidently see that no nation did euer of their owne voluntary minde incorporate themselves into a kingdom for any other intent, but only to the ende, y thereby they might with more safety then befoze maintaine themselves, & enjoy their goods from such misfortunes & losses as they stood in fear of, And of this intēt shuld such a natiō be utterly defrauded, if then their king might spoile them of their goods, which befoze was lawfull for no man to do. And yet should such a people be much more iniured,

cellarie, declarationis tuæ lumine tenebras, quibus obducta erat acies mentis meæ, quo clarissime iam conspicio, quod non alio pacto gens aliqua, proprio arbitrio, vnquam se in regnum corporauit, nisi vt per hoc, se & sua, quorum dispendia formidabant, tutius quam antea, possiderent, quā proposito gēs huiusmodi fraudaretur, si exinde facultates eorum eripere possit Rex suus, quod antea facere vlli hominum nō licebat. Et adhuc graui⁹ multo populus talis læderetur,  
E.iii. si



*Fortescue, in commendation*

si deinde peregrinis legibus, etiam ipsis forsan exotis, regerentur. Et maxime, si legibus illis, eorum minoraretur substantia, pro cuius vitanda iactura, ut pro suorum tutela corporum, ipsi se Regis imperio, arbitrio proprio, submiserunt, non potuit reuera potestas huiusmodi ab ipsis erupisse: & tamen si non ab ipsis, Rex huiusmodi super ipsos nullam obtineret potestatem. E regione, aliter esse concipio de regno, quod Regis solum auctoritate & potentia incorporatum est, if they should afterwarde bee governed by forreine and straunge Lawes, yea and such as they peradventure deadly hated and abhorred. And most of all, if by those lawes, their substance should bee diminished, for the safegarde whereof, as also for the defence of their owne bodies, they of their owne free will submitted themselues to the gouernaunce of a King, no suche power surelye could haue proceeded from them: And yet if they had not beene, such a King could haue had no power ouer them. Now on the other side I perceiue it to stande muche otherwise with a kingdome, which onely by the authoritie of a king is incorporate,

For

For such a Nation is no otherwise subiecte vnto him, but that the same Nation, which by hys pleasure is made his kingdom, should obeye hys Lawes, and bee ruled by the same beeing nothing else but his like pleasure. Neither haue I yet, good Chauncellour, forgotten that, which in your treatise of the nature of the Lawe of Nature, you haue with pithye reasons clarkely prooued, concerning that the power of these two kings is equall: Howbeit the power of the one, whereby hee is at liberty to deal wrongfully, is not by such liberty augmented and increased, as to be of habilitie to decay and die, is no habilitie, but in respect of the priuation

quia non alio pacto gēs talis ei subiecta est, nisi vt eius legibus, quę sunt illius placita, gēs ipsa, quę eodem placito regnum eius effecta est, obtemperaret & regeretur. Neque, Cancellarie, a mea hucusque memoria elapsū est, quod alias in tractatu de natura legis naturę, horū duorum regū æqualem esse potētiam, doctis rationibus ostendisti, dum potestas, quę eorum alter perperam agere liber est, libertate hūdi nō augetur, vt posse languescere, moriue, potētia non est, sed propter priuationes in adiecto, E.iiij. im-



*Fortescue, in commendation*

impotentia potius denominandum. Quia ut dicit Boetius, *potentia non est nisi ad bonum*, quod posse male agere, ut potest Rex regaliter regnans, liberius quam Rex politice dominans populo suo, potius eius potestatem minuit, quam augmentat. Nam sancti spiritus, iam confirmati in gloria, qui peccare nequeunt, potentiores nobis sunt, qui ad omne facinus liberis gaudemus habere. Solum igitur mihi iam superest a te sciscitandum, si Lex Angliæ, and feblenes in the thing, it is rather to bee called a dishabilitie. Because that as Boetius sayth: habilitie and power is not but to good: So that to bee of habilitie or power to doo euill, (as is the king that Regally both rule, and that with much more liberty, then the king that hath a politique dominion ouer his people) is rather a diminution then an increase of power. For the holy spirites, which are now established in glozie, and cannot sinne, doe in power far excell and passe vs, which haue a delight & pleasure to run headlōg into all kinde of wickednes. Now therfore I haue but this one only question to demaunde of you, whether the law of England, to

to the studie whereof you exhort me, be as good and effectuell for the gouernment of that kingdom, as the Ciuile lawe, whereby the holy empire is gouerned, is thought sufficient for the gouernment of the whole world: If w<sup>th</sup> sound reasons and apparant demonstrations you resolute me in this point, I will streight yeelde me to the study of the Lawe, without further troubling you with my questiōs in this matter.

ad cuius disciplina-  
tum me prouocas,  
bona & efficax est  
ad regimē regni il-  
li<sup>9</sup>, vt lex ciuilis, qua  
sacrū regulatur im-  
periū, sufficiēs arbi-  
tratur ad o<sup>i</sup> bis regi-  
men vniuersi? Si me  
in hoc, demonstra-  
tionibus congruis,  
indubium reddide-  
ris, ad studium legis  
illius illico me cōfe-  
rā, nec te postulatio-  
nib<sup>9</sup> meis super his,  
amplius fatigabo.

*That all Lawes are the law of nature, customes,  
or, statutes.*

*Cap. 15.*

**T**he Chancelor answered saying: you haue wel cōmitted to memory, most worthy Prince, all that I haue hitherto declared vnto you, & there

**C**ancellarius,  
memoriæ tuæ,  
princeps optime,  
commendasti, quæ  
tibi hucusque sug-  
gesti, quare &  
quæ



*Fortescue, in commendation*

quæ iam interro-  
gas, meritis es vt  
pandam. Scire te  
igitur volo, quod  
omnia iura huma-  
na, aut sunt lex na-  
ture, consuetudines,  
vel statuta, quæ &  
cōstitutiones appel-  
lantur, Sed cōsuetu-  
dines & legis na-  
turæ sententiæ, post-  
quā in scripturā re-  
ductæ, & sufficienti  
auctoritate princi-  
pis promulgatæ fue-  
rint, ac custodiri iu-  
beantur, in constitu-  
tionum siue statuto-  
rū naturam mutan-  
tur, & deinde pena-  
lius, quā antea sub-  
ditos principis ad  
earum custodiam  
constringunt, seue-  
ritate mandati illius,

forē you are well worthy  
to haue this doubtē ope-  
ned, whereupon now you  
haue mooued your questi-  
on. You shall therefore  
vnderstand, that all hu-  
maine Lawes are either  
the Law of nature, or cu-  
stomes, or els statutes,  
which are also called con-  
stitutions. But customes  
and the sentences of the  
Law of nature, after that  
they were once put in  
writting, and by the suf-  
ficient authoritie of the  
Prince published & com-  
maunded to bee kepte,  
were chāged into the na-  
ture of constitutions, or  
statuts, and did after that  
more penally, then be-  
fore, binde the subiectes  
of the Prince to the kee-  
ping of thē by the seueri-  
tie of his commandemēt,

Of

Of this sorte are the most part of the Ciuile lawes, whiche of the Romaine Princes are digested in great volumes & by their auctoritie commaunded to be obserued. And not they onely are called by the name of the Ciuile law, but also all the other statutes of Emperours. Now then, if that among these iii. wellsprings of all Lawe, I proue the preeminence of the Lawe of England to excell aboue the rest, I shall therewith proue the same Law to be good and effectual for the gouernemēt of the kingdome. And further, if I do shewe it to bee as commodius for the wealth of that Realme, as the Ciuile Lawes are for the wealth of the Empire,

qualis est legum ciuiliū pars nō modica, quæ a Romanorum principib<sup>9</sup> in magnis voluminibus redigitur, & eorum auctoritate obseruari mandatur. Vnde legis Ciuilis, vt cetera Imperatorū statuta, iam pars illa nomen sortita est. Si igitur in his tribus quasi omnis iuris fontibus, legis Angliæ præstatiā probauerim præfulgere, legem illam, bonam esse & efficacem, ad regni illius regimen, etiam comprobauī. Deinde si eam, ad eiusdem regni utilitatem, vt leges ciuiles ad imperij bonum, accom-



*Fortescue, in commendation*

accommodam esse  
lucide ostenderim,  
nedum tunc legem  
illam præstantē, sed  
&, vt leges ciuiles,  
electam (vt tu op-  
tas) etiam patefeci.  
Igitur hæc duo tibi  
ostendere satagens,  
sic progredior.

then shal I make euident &  
plaine, not only y<sup>e</sup> this law  
is of much excellency, but  
also that it is an elect and  
chosen law, as well as the  
Ciuite laws are: which is  
the thing y<sup>e</sup> you require.  
Wherefore to the prooffe  
and declaratiō of these is,  
points, thus I proceede.

*The law of nature in all countries, is all one.*

*Cap. 16.*

**L**Eges Angliæ in  
his, quæ ipsæ fan-  
ciūt legis naturæ ra-  
tione, non meliores  
peioresue sunt in iu-  
dicijs suis, quam in  
cōsimilib<sup>9</sup> sunt om-  
nes leges cætera-  
rū nationum. Quia,  
vt dicit Philosoph<sup>9</sup>  
5. Ethicorū: Ius na-  
turale est, quod a-  
pud omnes homines

**T**he lawes of Englad,  
in those things, which  
they by force of the Law  
of nature do ratifie & esta-  
blish, are neither better  
nor worse in their iudge-  
ments, then the lawes of  
all other natiōs are in the  
like cases. For as Aristo-  
tle in the 5. booke of his  
Moral philosophy sayeth:  
The Lawe of nature is y<sup>e</sup>  
which among all people  
hath

hath lyke strength and power, wherefore hereof to reason any longer it shal not auayle. But now hencefozth we will search out what maner of Customes & Statutes these of England are. And first the qualitie of those customes wee will consider.

eandem habet potentiam, quare de ea amplius disceptare non expedit. Sed quales sunt Angliæ consuetudines similiter & statuta, est a modo perscrutadū, & primo consuetudinū illarū visitabimus qualitates.

*The Customes of England are of most auncient antiquitie, practised and receined of v. seuerall Nations, from one to an other, by succession. Cap. 17.*

**T**he Realme of England, was first inhabited of the Brittons, next after them the Romaines had the rule of the land, and then againe the Brittons possessed it, after whom the Saxons inuaded it, who changing the name therof did for Brittain call it England, af-

**R**egnum Angliæ, primo per Britanos inhabitatum est, deinde per Romanos regulatum, iterumq; per Britanos, ac deinceps per Saxones possessum, qui nomen eius ex Britannia in Angliam mutauerunt: extunc per



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ter then for a certain time the Danes had the dominion of the Realme, and then Saxons againe, but last of all the Normans subdued it, whose discent continueth in the gouernment of the kingdome at this present. And in all the times of these seuerall nations & of their kings, this realme was still ruled wpyth the selfe same customes, that it is now gouerned withall. Which, if they had not bin right good, some of those kings mooued eyther with Iustice, or with reason or affection, would haue changed the, or els altogether abolished them, & especially the Romaines, who did iudge all the rest of the world by their owne lawes. Likewise would

per Danos idē regnum parumper dominatum est, & iterū per Saxones, sed finaliter per Normannos, quorum propago regnū illud obtinet in presenti. Et in omnibus nationum harum & regum earū temporibus, regnum illud eisdem, quibus iam regitur, consuetudinibus continuē regulatum est. Quæ, si optimæ non extitissent, aliqui regum illorū, iustitia, ratione, vel affectione concitati, eas mutassent, aut omnino deleuissent, & maxime Romani, qui legib⁹ suis quasi totū orbis reliquū iudicabāt. Similiter

militer et alij regum  
prædictorū, qui so-  
lūm gladio regnum  
Anglię possiderunt,  
quō & potentia si-  
mili, ipsi, leges eius  
exinanisse valuerūt.  
Neq; vero tantorū  
tēporum curriculis,  
leges ciuiles, in quā-  
tum Romanorū, in-  
ueterate sunt, neque  
Venetorū leges, quę  
sup̄ alias antiquita-  
te diuulgantur, quo-  
rum tum insula, in  
initio Britonum, in-  
habitata non fuit, si-  
cut nec Roma cōdi-  
ta, nec vllorū mundi  
regnorū deicolarum  
leges, tanto quo ino-  
lite sunt: Quare, non  
bonas, immo non  
optimas esse, Anglo-  
rum consuetudines,

other of the foresaid kings  
haue done, which by the  
sword onely possessing the  
realme of Englā, might  
by the like power & auc-  
thority haue extinguished  
the Lawes thereof. And  
touching the antiquitie of  
the same, neyther are the  
Romain Ciuile lawes, by  
so long cōtinuance of an-  
ciēt times, confirmed, nor  
yet the Lawes of the Cle-  
netians, which, aboue all  
other, are reported to be of  
most antiquity, for so much  
as their Island in y begin-  
ning of the Britons was  
not then inhabytēd, as  
Rome then also vnbuyld-  
ed, neither the Lawes of  
any Paynim nation of the  
world, are of so old & anci-  
ent yeares: Wherefore  
the contrarie is not to be  
said nor thought, but that  
the Englyshe customes  
are



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sicut non dicere, ita are verie good, yea of all  
nec suspicari fas est. other the verie best.

*¶ Here he sheweth with what gravitie Statutes  
are made in England. Cap. 18.*

**S**Tatuta tunc An-  
glorum, bona sint  
necne, solum restat  
explorandum. Non  
enim emanant illa a  
principis solum vo-  
luntate, vt leges in  
regnis, quæ tantum  
regaliter gubernan-  
tur, vbi quandoque  
statuta ita constitu-  
entis procurant cõ-  
modum singulare,  
quod in eius subdi-  
torũ ipsa redundant  
dispendium & ia-  
cturam: Quandoq;  
etiam inaduertentia  
principũ huiusmo-  
di, & sibi consulen-  
tium, inertia, ipsa

**N**ow whether the sta-  
tutes of England be  
good or not, that only re-  
maineth to be discussed.  
For they proceede not on-  
ly from the princes plea-  
sure, as do the lawes of  
those kingdomes, that are  
ruled onely by regall go-  
uernement, where some-  
times the statutes do so  
procure the singuler com-  
modity of the maker, that  
they redound to the hin-  
derance and dammage of  
his subiects: Sometimes  
also by the negligence &  
ouer sight of such princes,  
and their sleight regard,  
respectyng onely theyr  
owne commodities, they  
are

are so vnadvisedly made, that they are moze worthe to haue the name of disorders, then of wel ordered Lawes: But Statutes can not thus passe in England, for so much as they are made not onely by the Princes pleasure, but also by the assent of the whole royaume: so that of necessity they must procure the wealth of the people, and in no wyse tende to their hynderaunce. And it cannot otherwyse bee thought, but that they are replenished wyth much witte and wysedome, seeing they are ordayned not by the deuise of one man alone, or of a hundred wise Counsellers onely, but of moe then three hundred chosen menne,

tam inconsulte eduntur, quod corruptelarum nomina potius, quam legum, illa merentur. Sed non sic Angliæ statuta oriri possunt, dum nedum principis voluntate, sed & totius regni assensu, ipsa conduntur, quo populi læsuram illa efficere nequeunt, vel non eorum commodum procurare. Prudentia etiam & sapientia, necessario ipsa esse referta putandum est, dum non vnus, aut centum solum consultorum virorum prudentia, sed plusquam trecentorum electorum hominum,

F.j. quali



*Forrescue, in commendation*

quali numero olim  
senatus Romanorū  
regebatur, ipsa edi-  
ta sūt, vt hij qui par-  
liamenti Anglię for-  
mam, cōuocationis  
quoq; eius ordinem  
& modum, noue-  
runt, hæc distincti-  
us referre norunt. Et  
si statuta hæc, tanta  
solemnitate & pru-  
dentia edita, effica-  
ciæ tantæ, quantæ  
cōditorum cupiebat  
intentio, non esse  
contingant: concito  
reformari ipsa pos-  
sunt, & non sine cō-  
munitatis & proce-  
rum regni illi assen-  
su, quali ipsa primi-  
tus emanarunt: patēt  
igitur iam tibi, prin-  
ceps, legum Anglo-  
rum species omnes.

much agreeing with the  
number of the auncient  
Senatoures of Rome: as  
they that know the fashi-  
on of the Parliament of  
Englande, and the order  
and maner of calling the  
same together, are able  
more distinctly to de-  
clare. And if it fortune  
these Statutes beeynge  
deuised with such great  
solemnitye and witte, not  
to fall out so effectual-  
ly, as the intente of the  
makers did wishe: they  
may bee quickly refour-  
med, but not without  
the assent of the commons  
and states of the Realme,  
by whose aucthoritie they  
were first deuised: Thus  
moste worthe Prince,  
you doe plainely under-  
stande all the kyndes of  
the Lawes of England.

And

And touching their qualities, as whether they be good or no, you shall be able to measure that, as well by your owne wit, as by comparing them with other lawes: And when ye shall find none in y<sup>e</sup> whole world of like excellencie, you must of force graunt them to be not only good, but also on your behalfe most to be embraced.

Earum quoq; qualitates, vt si bonæ ipsæ sint, metiri tu poteris prudentia tua, comparatione etiam aliarum legum: & cum nullo tam tantæ præstantiæ in orbe reperies, eas nedum bonas, sed tibi optabilissimas fore, necessario confiteberis.

*¶ Here he deniseth a meane how to know the diuersitie, betweene the Ciuill Lawes, and the Lawes of England,*

*Chap. 19.*

**O**nly doubt, whether your mind is troubled, remaineth now behind vndiscussed, And y<sup>e</sup> is this: whether as the ciuill lawes, so likewise y<sup>e</sup> lawes of

**S**olui iam vnum de his, quibus agitur animus tuus, restat explanandum v<sup>z</sup>. an, vt Civiles, ita & Anglorum leges, F.ij. frugi



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frugi sint & efficaces, isti Angliæ regno, vt illæ imperio, etiam & accommodæ iudicari mereantur. Comparationes vero, princeps, vt realiquando dixisse recolo, odiosæ reputantur: quo eas aggredi non delector: tu, an æqualis sint ambæ leges meriti, vnaue altera celsius preconium mereatur, non ex meo iudicio, sed ex his, in quibus earum differunt sententiæ, efficacius carpere poteris argumentum, Nam vbi cõueniunt leges ambæ, æqualis laudis ipsæ sunt,

Englande, bee fruitfull and effectuell, these for the Realme of England, as the other for the Emperie, and whether they may wortheelye bee iudged fitte and meete. Comparisons, most noble Prince, (as I remembred I hearde you once saye) are compted odious. Therefore I am loth to meddle with them: But whether they bee both of like worthynesse, or that the one deserueth an higher commendation then the other heereof you may gather a pythier argument, out of those pointes, wherein their sentences doe differ, then by my declaration. For where bothe the Lawes doe agree, the prayse of them is equall. But

But in cases, where they disagree, the worthier Lawe is most praiseworthy. Therefore we will now expounde some such cases, to the intent you may indifferently ponder and weigh, whether of these doth most iustly and better define the same: And first wee will putte forth examples of cases of much weight.

*The first case wherein the Ciuill Lawes, and the Lawes of England doo differ. Ca. 20.*

If they, that haue a matter of controuersie depending before a Iudge, come to the contestation of the suit vpon the matter of the deede, which the Lawiers of England call the issue of the plea: the truth of such an issue, by the ciuill Lawes, must

sed in casib<sup>9</sup>, vbi ipsæ dissentiunt, præstantioris leges præconia, digna pensatione refulgēt. Quare casus hñdi aliquos iā in mediū proferemus, vt que legū illarū, eos iusti<sup>9</sup> meliusq; definiat, æquālce valeas pōderare & primo ex casibus maximī pōderis, exempla proponam<sup>9</sup>.

SI coram Iudice contendentes, ad litis perueniant contestationem super materia facti, quam Legis Angliæ periti, exitum placiti appellant: Exitus huiusmodi veritas, per Leges Ciuiles, F.ij. testium



*Fortescue, in commendation*

testium depositione  
probari debet, in  
qua duo testes ido-  
nei sufficient: Sed  
per leges Angliæ,  
veritas illa, non, nisi  
12. hominū de vi-  
cinitate, ubi factū hu-  
iusmodi supponitur,  
sacramēto, Iudici cō-  
stare poterit. Quæ-  
ritur igitur, quis ho-  
rum duorū proces-  
sus tam diuersorū,  
rationabilior cēseri  
debeat & efficacior,  
ad veritatē, quæ sic  
queritur, reuelandā.  
Quia lex, q̄ eā certi-  
us meliusq; ostēde-  
re potest, præstātor  
in hoc est lege alte-  
ra, que non tantæ ef-  
ficaciæ est & virtutis,  
quare in hui⁹ rei in-  
dagine sic pcedim⁹.

be tryed by the deposition  
of witnesses, wherein two  
allowable witnesses are  
sufficient. But by the  
Lawes of Englande the  
truth of the matter can-  
not appeare euident to the  
Judge, without the othes  
of twelue men neighbors  
to the place, where such a  
deede is supposed to bee  
done. Nowe therefore the  
question is, whether of  
these two so diuers proce-  
dinges, ought to be este-  
med more reasonable & ef-  
fectuall for the opening of  
the truth, which thus is  
sought for. For the Lawe,  
that can more certeinly &  
better shew the truth, is in  
this behalfe of more excel-  
lencie, then the other that  
is of lesse efficacy & force,  
wherfore in y<sup>e</sup> serch of this  
matter thus we proceede.

*¶ Here*

*¶ Here are set forth the inconueniences proceeding of that Law, which no otherwise then by witnesses admitteth trialls. Cap. 21.*

**B***Y* the Ciuil Lawes, the party, which in the issue holdeth the affirmatiue, must bring forth witnesses, which he himselfe at his owne pleasure shall name. But the negatiue cannot be prooued directly, though indirectly it may. For the habilitie of him is thought to be very small and weake, and his witte much lesse, which, among all the men that he knoweth, is not able to find two so voide of conscience and trueth, which for dreade, loue, or profite, will not bee ready to gaine saye all trueth. Suche then may hee produce for witnesses on his side.

**P***ER* leges Ciuiles, pars, quæ in litis contestatione affirmatiuam dicit, testes producere debet, quos ipsemet ad libitum suum nominabit. Negatiua autem probari non potest, v. z. directe, licet possit per obliquum. Exilis quippe creditur esse potentia, minoris quoque industriæ, qui de omnibus quos nescit hominibus, duos reperire nequit, ita conscientia & veritate vacuos, ut timore, amore, vel commodo, omni velint contraire veritati. Hos potest tunc ipse in testes producere in causa sua.



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Et si contra eos pars altera dicere velit, vel cōtra eorum dicta, non semper cōtinget, eos, eorū quoque mores aut facta apud contradicere volentē, agnosci, vt ex eorū feditate & vitijs, testes illi possint reprobari. Et dū eorū dicta affirmatiuā cōtineāt, nō facile poterūt illa p̄ circumstantias aut obliqua alia improbari: Quis tunc poterit suorū aut sui ipsius, sub lege tali, viuere securus, dū cuilibet, sibi inimicari volēti, lex tale præstat subsidium? Et qui ini-qui duo tam incauti sunt, quod facti, de quo ipsi examina- buntur in iudicio,

And if the other party would obiect any thing a- gainst them, or their say- ings, it chanceth not euer, that they and their condi- tions & doings are know- en to the contrary partie, so that by reason of their foule liues and vicious be- haviour such witnesses might be repproued. And while their sayings cōtein the affirmatiue, it shall be very hard to repproue them by circumstaunces, or any other indirect meanes: who then shall bee able to liue in suerty of his goods or of himselfe vnder such a lawe, that ministreth such aide to euery busie body y luffeth to troble another? And what 2. wicked men are so vn wary & vncircū- spect, which touching the deede, whereof, they shall be examined in iudgment, will

will not, before they are called forth for witnesses, secretly imagine & devise a forme and fashion thereof, & frame thereto all circumstances, euen such, as must needes haue bin so, if the thing had bin true in deede: For the children of this world (saith the lord) are wiser then the children of light. So the most wicked Iesabell brought forth 2. witnesses of the child of Belial in iudgment against Nabot, whereby he lost his life, & King Achab her husband obtained the possession of y<sup>e</sup> vineyard. So the most chaste matron Susanna should haue died for aduoutrie by the witness of two old dotardes being iudges, if the Lord had not marvellously deliuered her by a

non, antequam in testes producatur, occulte fingat imaginem & figuram, componant quoque eidem omnes circumstantias, quales sibi fuissent, si illud in veritate constitisset? Prudentiores namque, ut dicit dominus, sunt filij huius mundi quam filij lucis. Sic Iesabel sceleratissima, testes duos, filios Belial contra Nabot in iudicio produxit, quo ipse vitam perdidit, & Achab rex, eius vineam possidebat. Sic duorum senum etiam Iudicium testimonio, mortua fuisset pro adulterio, uxor castissima Susanna, si non eam mira-



*Fortescue, in commendation*

miraculose liberali-  
set Dominus inex-  
cogitabili pruden-  
tia, quam a natura  
non habuit puer iu-  
nior, nondum ætate  
prouect<sup>o</sup>. Et si ipsos,  
depositione sua va-  
ria, conuicerat puer  
ille, esse falsarios,  
quis, nisi solum do-  
minus, nouisse po-  
terat eos in dictis  
suis taliter variatu-  
ros? dum, non de  
arboris natura, sub  
qua imputatum fa-  
cinus fiebat, lex ali-  
qua eos arctabat re-  
minisci. Quia te-  
stes sceleris cuiusq;  
cōsiderare nō putā-  
tur omnia vmbra-  
cula & cetera vicina il-  
li facto, quæ ad ag-  
grauationē vel de-

wonderfull feate of pru-  
dence, whiche of nature  
the yoong childe had not,  
beyng yet vnder age.  
And though the same  
childe by their altering  
and doubling in their de-  
positions did cōuict them  
to bee false wretches,  
yet who (saue onely the  
Lord) could haue know-  
en that in their sayinges  
they woulde thus haue  
disagreed? Seing there  
was no Lawe that dyd  
mooue them to haue in  
remembrance what kind  
of tree it was, whereun-  
der the facte was suppo-  
sed to bee done. For  
the witnesses of. euerye  
wicked deede are not  
thought to consider al cir-  
cumstances apperteining  
to the same, beyng suche  
as doe nothing helpe to  
that

the aggravation and detection of the fault. But while those wicked Judges, willingly swearing, did alter touching the kindes of trees, their owne wordes prooued them to be false verlets: Wherefoze they worthely suffered the same punishment themselues. You also, most gracious Prince, doe knowe how that lately Maister John Fring, after that he had continued thre yeares in the order of Priest-hood, was compelled by the deposition of two wicked persons, whiche witnessed that hee had, befoze hee was made Priest, betrothed himselfe to a certaine yonge woman, to forsake the holy order of Priest-hood,

tectionē criminis illi<sup>o</sup> minimē operatur Sed, dū de arborum specieb<sup>o</sup>, iudices illi nequā, vltro depōnētes, variabant, eorum dicta ipsos veritatis fuisse prauaricatores demonstrabant: quo & talionis pānā meritō incurrerunt. Nosti & tu, princeps diuine, qualiter iam tardē magister Iohannes Fringe, qui, postquam annis tribus sacerdotali functus est officio, duorum iniquorum depositione, qui eum antea iuenculam quandam affidasse testati sunt, sacrū presbiteratus ordinē relinquere cōpulsus est, &



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& matrimonium cū femina illa consummare. Cū qua, postquam annis 14. morat<sup>r</sup>, sobolem septimā suscitauerat, de mū de crimine læsæ maiestatis in tuā celsitudinem cōiurato conuictus, subornatos fuisse testes illos, & falsum dixisse testimonium, in mortis suæ articulo, coram omni populo, falsus est. Qualiter & sæpe perueri iudicia, falsorum testimonium medio, etiam sub optimis iudicibus, non est tibi inauditum, nec incognitum mūdo, dum scelus illud (proh dolor) creberrime committatur.

and to marrie the same woman. W<sup>th</sup> whome when hee had liued fourteene yeares, and had begotten seuen chilozen of her, at the laste being conuicted of Treason, conspired againste your Highnesse, hee confessed befoze all the people euen at the very point of death, that those witnesses were hyed, and that theire depositions were false. And thus many times are iudgements peruerterd by the meane of fallie witnesses, yea and that vnder the verie best Iudges, as vnto you it is not vnhearde, nor to the worlde vnknown, while this wickednesse (the moze is the pitie) is often committed.

Of the crueltie of Rackings. Cap. 22.

**T**herefore the law of Fraunce, in offences criminal, wherupon death dependeth, is not content to conuict the party accused by witnesses, least by the testimony of false persons, innocent bloud should be condemned. But that law cholet rather to torment such offenders with racking, vntill they themselves confesse their owne fault, rather then by the deposition of witnesses, whych manie tymes through wicked affections, & sometimes by the subornation of euil men, are moued to periurie. Upon this, and such like cautels & respectes, offenders and suspect persons are in that realme with so many kindes of rackings

**N**on igitur contenta est lex Franciæ, in criminalibus, vbi mors imminet, reum testibus conuincere, ne falsi-dicorum testimonio sanguis innocens condemnatur. Sed mavult lex illa reos tales torturis cruciari, quousq; ipsi eorum reatū confiteantur, quam testium depositione, qui sepe passionibus iniquis, & quandoq; subornatione malorum, ad periuria stimulantur. Quali cautione & astutia, criminosi etiam & de criminibus suspecti, tot torturarum in regno illo generibus affligun-



*Fortescue, in commendation*

affliguntur, quod  
fastidit calamus ea  
literis designare.  
Quidam vero in e-  
quuleis extendun-  
tur, quo eorum  
rumpuntur nerui, &  
venæ in sanguinis  
fluenta prorumpūt:  
Quorundam vero,  
diuersorum ponde-  
rum pendulis dis-  
soluuntur compagi-  
nes & iuncturæ: Et  
quorundam gag-  
gantur ora, vsque  
dum per illa, tot  
aquarum infundan-  
tur fluenta, vt ipso-  
rum venter montis  
tumescent more,  
quo tunc venter ille,  
fossorio vel simili  
percussus instrumē-  
to, per os aquam il-  
lā euomat, ad instar

tormented, that my pen  
abhorreth to put them in  
wryting. For some are  
stretched out vpon a horse  
in such wyse, that their  
sinewes bzeak, and their  
vaines gush out wyth  
streames of bloud: Again  
other some haue byuers  
great weyghtes hanged  
at their feete, whereby  
their lymmes and ioyntes  
are dissolued and vnloo-  
sed: Some also haue  
theyr mouthes so long  
gagged open, till such a  
bundance of water bee  
powzed in, that their bel-  
ly swelleth like a hyll or  
a tonne, to the intent, that  
then the belly being pier-  
ced wyth some bozring in-  
strument, the water may  
issue & spout out thereat,  
and at the mouth stream-  
wise, not much vnlike a  
whale,

whale, which, when he hath supped vp, and swallowed downe a great quantitie of sea water, wpth herringes and other smal fishes, gusheth out the same water againe as highe as the top of any pyne apple tree. My penne is both weary and ashamed to rehearse the outragiousnes of torments deuysed in thys behalfe: For the number of them is so great, that it can skant well be noted in a whole skyn of parchiment. Doe ouer the Ciuill Lawes, for want of witnesses, do fetch out the trueth by such rackinges: And so doe dyuers other Countreyes too. But who is so harde harted, which beeing once

Balenæ, quæ, cum halecibus & alijs pisciculis mare absorbit, aquam despu- mat ad altitudinem arboris pini. Piget (proh pudor) iam penna exquisitorum ad hæc cruciatuum enarrare immania. Nam eorum varia- tus numerus vix no- tari poterit magna in membrana. Le- ges etiam ipsæ Ci- uiles, deficiente testium copia, in criminalibus, ve- ritatem consimili- bus extorquent tor- mentis: Quali- ter & faciunt eti- am quàm pluri- ma Regna. Sed quis tam duri ani- mi est, qui semel ab



*Fortescue, in commendation*

ab atroci tanto tor-  
culari laxatus, non  
potius innocēs ille,  
omnia fateretur, sce-  
lerum genera, quā  
acerbitatem sic ex-  
perti iterum subire  
tormenti, et non  
semel mori mallet,  
dum mors sit vlti-  
mum terribilium,  
quam toties occidi,  
& totidem gehen-  
nales furias morte  
amariore sustinere?  
Et nonne, princeps,  
tu nouisti crimino-  
sum quendam, qui  
inter tormenta hu-  
iusmodi, militem  
nobilem, probum,  
& fidelem, de pro-  
ditione quadam,  
super qua, vt asse-  
ruit, ipsi duo in-  
simul coniurarunt,

released out of so cruell a  
Racke, though he be in-  
nocent & faultlesse, would  
not yet rather accuse him-  
selfe of all kindes of of-  
fences, then againe to  
commit himself to the in-  
tollerable cruelty of the  
tozment once proued: and  
had not rather die at once  
(seeing death is the ende  
of all miseries) then so  
often to bee kylled, and  
to sustayne so many hel-  
lish furies, paynfuller  
then death it selfe? And  
dyd not you, most wor-  
thy Prince, know a cer-  
teyne offender, whych  
in such tozmentes ac-  
cused a worshyppefull,  
yea a ryght good and  
faythfull Knyght of  
treason, wherein, as  
hee sayde, they twoo  
had conspyzed together,  
which

which treason, he himselfe  
beeing released from the  
racke, afterward attempt-  
ed & accomplished, there-  
by to acquite himselfe  
from comming to the tor-  
ture againe. But at the  
last, by meane of those  
torments beeing so may-  
med in his body, that  
thereby hee was brought  
in despatre of his life, and  
thereupon receauing his  
howsell, he then swore by  
the same body of the Lord  
and by the death which he  
beleueed that hee shoulde  
forthwith die, that the  
said knight was innocent  
and guiltlesse in al things  
whereof hee had accused  
him, howbeit the paines,  
wherein hee was at the  
time of that his accusati-  
on, hee saide were so ex-  
treme, that rather then he  
would feele y<sup>e</sup> same again,

accusare, qd̄ & con-  
stanter postmodum  
ipse fecit, a torturis  
illis relaxatus, ne ite-  
ram eadem tormen-  
ta ipsa ipse subiret.  
Sed demū, cum ex  
pānis illis lēsus vsq;  
ad mortis articulum  
infirmaretur, vlti-  
mum quoq; viaticū,  
christi videlicet cor-  
pus sumpsisset: Iura-  
uit tunc super cor-  
pus illud, & p̄ mor-  
tem, quā tunc pro-  
tinus credidit se pas-  
surum, militem illū  
innocentem fuisse &  
immunem de omni-  
bus in quibus eum  
accusauit, tamen ait  
pānas, in quibus ip-  
se tempore delatio-  
nis suæ fuerat, ita a-  
troces extitisse, qd̄  
priusquam eas iterū  
G.j. experi-



*Fortescue, in commendation*

experiretur, etiā eū-  
dem militē ille ite-  
rum accusaret, simi-  
liter & patrem pro-  
prium, licet tunc in  
mortis limine, quam  
non credidit se pos-  
se euadere, fuerit cō-  
stitutus, nec vero, ip-  
se mortem, quā tunc  
metuit, euasit. Sed  
demum suspensus,  
tempore mortis sue  
ipsum militem pur-  
gavit ab omni cri-  
mine, de quo dudū  
defamauit. Taliter,  
proh dolor, & quam  
plures alij miseri fa-  
ciunt, non veritatis  
causa, sed solum vr-  
gentib<sup>9</sup> torturis arc-  
tati, quid tunc certi-  
tudinis resultat, ex  
confessionibus tali-  
ter compressorum?  
Ceterum si innocēs

hee woulde not sticke to  
accuse the sayde Knight  
againē, yea and his owne  
father to, This hee said  
being then at the verie  
poynt of death, which hee  
beleueed hee coulde not  
then escape, no no, hee  
escaped not the death  
which hee then feared.  
But afterwarde beyng  
hanged, at the time of  
his death hee cleared  
the sayde Knight of all  
crimes whereof beefore  
hee had defamed him.  
Thus (O pittifull case)  
doe manye other wret-  
ches, not for the truthe  
sake, but forced thereun-  
to by the extremitie of  
tormentes, And what  
certeintie then can arys  
of the confessions of mise-  
rable tormented persons.  
But if some innocent  
bodie, hauing his minde  
fixed

fixed vppon eternall sal-  
uation, woulde in such a  
Babylonicall fornice,  
wth the three Children  
blesse and magnifie the  
LORD, and not lye  
to the damnation of his  
owne soule, in that the  
Iudge pronounceth him  
vnguiltie, doth not that  
Iudge by the selfe same  
iudgement iudge him  
selfe guyltie of all the  
cruelty and paines, wher-  
wth hee hath tormen-  
ted the innocent? O  
howe cruell is suche a  
Lawe, which in that it  
can not condemne the  
fely innocent, condemp-  
neth the Iudge? Sure-  
ly suche a custome is not  
to bee accompted a law,  
but rather the hyghe  
waye to the Deuill. O  
Iudge, in what Schole

aliquis non imme-  
mor salutis eternæ  
in huiusmodi Babi-  
lonis fornace, cum  
tribus pueris bene-  
dicat domino, nec  
mentiri velit in per-  
niciem animæ suæ,  
quo iudex eum pro-  
nunciat innocentem,  
nonne eodē iudicio,  
iudex ille, seipsum  
reum iudicat omnis  
fauitiæ & penarum,  
quibus innocentem  
affixit? O quā cru-  
delis est lex talis,  
quæ dum innocen-  
tem dampnare ne-  
quit, iudicē ipsa cō-  
demnat? Vere non  
lex ritus talis esse  
perhibetur, sed poti-  
us semita ipsa est ad  
gehennam. O iudex  
quibus in Scholis  
G.ij. didicisti



*Fortescue, in commendation*

didicisti, te præsen-  
tem exhibere, dum  
penas luit reus? Exe-  
cutiones quippe iu-  
dicatorum in crimi-  
nosos, per ignobiles  
fieri conuenit: Nam  
carum actores, infam-  
es solent esse ipso  
facto, quo & ipsi de-  
inde ad iudicalem  
apicem redduntur  
indigni: non enim  
per angelos, sed per  
demonas, exequi fa-  
cit dominus iudicia  
sua reddita in dam-  
natos. Nec reuera in  
purgatorio cruciant  
animas, quâuis præ-  
destinatas ad glori-  
am, angeli boni, sed  
mali. Maligni etiam  
homines sunt, per  
quos dominus in hoc  
mundo, miseris tri-  
buit malum pænæ.

hast thou learned to bee  
present, while þe offender  
is tormented. For the ex-  
ecution of iudgments by  
on offenders ought to bee  
done by men of base de-  
gree: the doers wherof do  
purchase to theselues pre-  
sent infamy by the deede  
doing, in somuch that euer  
after they are disabled from  
the preferment of a iudge:  
neither doth þe Lord God  
execute his iudgements,  
pronounced against the  
dampned, by angels, but  
by deuils. Yea & in Pur-  
gatorie the soules ther re-  
maining, though they bee  
predestinate to glorie, yet  
are they not tormented  
with good angels, but of  
euill. Those also are euill  
& wicked men by whome  
þe Lord in this world doth  
minister to wretched sin-  
ners deserued punishmēt.

For

For, when God saide in the two and twentieth Chapiter of the thirde booke of Kynges: Who shall deceiue Achab? It was an euill spirite that answered: I will bee a lying spirite in the mouth of all his Prophetes. For it becometh not a good spirite to take vppon him the execution of suche thynges, though this iudgement proceeded from the Lord, that Achab shoulde bee deceaued by a lye. But the Iudge peraduenture will saye: I with mine owne handes dyd nothyng in these torments. But what differeth it, whether one be a doer with his owne handes, or els be present at the dooing, and the

Nam, cum dixerat Deus iij. Regum in Capitulo vicesimo secundo. Quis decipiet mihi Achab? malus erat spiritus, ille, qui respondit. Ego ero spiritus mendax in ore omnium Prophetarum eius. Non enim decuit spiritum bonum exequi talia, licet a domino prodijt iudicium, quod Achab mendacio deciperetur. Sed dicet Iudex forsitan: Ego nihil egi manibus meis in cruciatibus istis. Sed quid refert proprijs facere manibus, an praesentem esse, & quod



Fortescue, in commendation

quod factum est, mandato suo iterum atque iterum aggravare: Solum magister navis est qui eam ducit ad portum, licet eius mandato alij agitent proram. Credo quod vulnus, quo fauciatur animus iudicis pœnas huiusmodi infligentis, nunquam in cicatricem veniet, maxime dum recolit acerbitatem pœnarum miseri sic afflicti.

thing that is done to exasperate it by his commaundement. It is onely the Master of the shippe that bringeth it to the Haven, though by his commaundement another bee the stirresman, I beleue that the wound wherewith the minde of the Iudge thus tormenting any man is plagued, will neuer bee healed againe, especiall ye while hee remembreth the extremitie of the paynes sustained by the poore wretch in those miserable torments.

*Here he sheweth that the Ciuill Lawe oft faileth in doing of Iustice. Ca. 23.*

PRæterea, si ex contractibus, illatisue iniurijs,

Moreouer, if by reason of bargayning, or by suffering of iniuries, or by

by Tytle of enheri-  
taunce, right doo ac-  
crewe to a man, to pleade  
in Iudgement: If there  
bee no witnesses, or if  
suche as were witnesses  
bee deade, the Playn-  
tife must needes let hys  
Action fall, except hee  
bee able to proue hys  
right by ineuitable con-  
iectures, which is sel-  
dome seene. Where-  
fore concernyng Lorde-  
shippes and other posses-  
sions ruled by the Ciuill  
Lawe, And in all Ac-  
tions falling vnder the  
same Lawe, the Acti-  
ons of the Playntifes,  
for wante of witnesses,  
manye tymes are choa-  
ked, so that scante the  
halfe parte of them at-  
taineth to the desired  
ende. What manner of

vel hereditatis titu-  
lo ius accreuerit ho-  
mini agendi in iudi-  
cio: si testes non fu-  
erint, vel si qui fue-  
rint moriantur, suc-  
cumbet ipse agens  
in causa sua, nisi ius  
suum probare valeat  
ineuitabilibus con-  
iecturis, quod facere  
crebro non contin-  
git. Quare de domi-  
nijs & alijs possessi-  
onibus iure Ciuili  
regulatis, similiter &  
in omnibus actioni-  
bus cadentibus sub  
eodē iure, actiones  
agentium pro defe-  
ctu testium quam-  
pluries suffocantur,  
ita quod earum vix  
pars media opta-  
tum finem sortia-  
tur. Qualis tunc est  
G. iij. lex



*Fortescue, in commendation*

lex huiusmodi, quæ iniuriatis, taliter deficit in iustitia reddenda? dubito an iusta vocari mereatur, quia in eadem lege scribitur, quod Iustitia unicuique tribuit quod suum est, quod non faciat lex talis.

law then is this, which to them, that sustaine wrong thus faileth in yeelding Justice: I doubt whether it deserue to bee called a iust Lawe, because in the same Lawe it is written, that Justice rendzeth to euery man that which is his owne, But this can not such a lawe doe.

*Here he declareth, how Counties are deuided, and Shirifes chosen. Cap. 24.*

Exposita iam forma, qua leges Ciuiles de veritate facti in iudicio deducti iudicem erudiunt, superest ut modum, quo leges Angliæ huiusmodi facti eliciunt veritatem, etiã doceamus.

**N**OW that we haue opened, after what maner the Ciuill Lawes doo enfourme a Judge of the truth of a matter brought into iudgement, it is consequent to declare by what means the lawes of England doo boult out the truth of such a matter.

For the orders of bothe the Lawes beyng layde together, the qualities of them bothe will moze plainly appeare: forso- much as the Philosopher sayeth, that contraries, placed one by an other, will shewe themselves moze euidentlie. But herein, after the maner of Oratours, in steade of a Prohemie, it shall not be amysse, that wee open certeine thinges befoze, the knowledge whereof shall giue light to things whiche heereafter shall come in talke, wherefoze thus wee doe procede. The Royallme of Eng- lande is deuyded into counties, as the royallme of Fraunce is into Bay- lywikes, so that in En- glande there is no place,

Nam ambarum le- gum formulis con- tigue positis, qua- litates earūdem lu- cidius eminebunt: cum dicat Philo- sophus, quod op- posita iuxta se po- sita magis apparent. Sed in hoc, Ora- torum more (Pro- hemij loco) quæ- dam prænarrare congruet, quo- rum agnitione, de- inde tractanda cla- rius patere que- ant, quare sic pro- cedimus. Reg- num Angliæ per conitatus, vt re- gnum Franciæ per balliuatus distin- guitur, ita vt non sit locus in Anglia, qui non sit infra corpus



*Fortescue, in commendation*

corpus alicuius comitatus. Comitatus quoque diuiduntur in hundreda, quę alicubi Wapentagia nuncupantur. Hundreda verò diuiduntur per villas, sub quarum appellatione cōtinētur & burgi atque Ciuitates. Villarum etenim metę, non muris, ædificijs, aut stratis terminantur, sed agrorum ambitub⁹, territorijs magnis, hamiletis quibusdā & multis alijs, sicut aquarum, boscorum & vastorum terminis, quę iam non expedit nominibus designare, quia vix in Anglia est locus aliquis,

that is not within the bodye of some Countie. Counties also are deuided into hundredes, which somewhere are called Wapentages. And Hundredes are deuided into Villages, vnder whiche appellation are conteyned Borowes and Cities. For the boundes of Villages are not conteyned within the circuit of Wallles, Buildinges, or Streetes, but within the compasse of Fieldes, great Territories, certeyne Hamlettes, and many other, as of Waters, Woods and waste Groundes, whychē it is not needefull nowē to set forthē by theyr names: because that in Englande there is skant any place, which

which is not conteyned within the compasse of Villages, though certeyne Priuiledged places within villages, are supposed to bee no parcell of the same villages. Moreover in euery Countie there is one certeine officer called the kings Shierife, which among other duties belonging to his Office, putteth in execution all the commaundementes and iudgements of the kinges court, that are to be executed within his countie: His office endureth but for one yeare, so that after the expiration of the yeare, hee may not minister in that Office, Neyther shall hee, within two yeeres next ensuing, bee admitted to the same Office againe,

qui non infra villarum ambitus contineatur, licet priuilegiati loci quidam infra villas, de eisdem villis pars esse non censentur. Præterea in quolibet comitatu est officarius quidam vnus, regis vicecomes appellatus, qui inter cætera sui officij ministeria, omnium mandata & iudicia curiarum regis in comitatu suo exequenda, exequitur, cui<sup>9</sup> officium annale est, quò ei post annum, in eodem ministrare non licet, nec duobus tunc sequentibus annis ad idem officium reassumetur.

Offi-



*Fortescue, in commendation*

*Py. 225. b.* Officiarius iste sic  
eligitur. Quolibet  
anno in crastino ani-  
marū, conueniūt in  
scaccario regis om-  
nes cōsiliarij eiustā  
domini Spirituales,  
& tēporales, quam  
alij oēs iusticiarij,  
omnes barones de  
scaccario, clericus  
rotulorū, & quidam  
alij officiarij vbi hij  
oēs cōmuni assensu,  
nomināt de quoli-  
bet comitatu tres  
milites vel armige-  
ros, quos inter cate-  
ros eiūsdem comi-  
tatus ipsi opinantur  
melioris esse dispo-  
sitionis & famæ, &  
ad officium viceco-  
mitis comitatus illi-  
us melius disposi-  
tos: ex quibus Rex

This officer is thus cho-  
sen. Euerie yeare, the  
morrowe after All soules  
daye, all the Kinges  
Counsellors meete toge-  
ther in the Kinges Er-  
chequer, as well the Lords  
Spirituell and Tempo-  
rall, as all other Ju-  
stices, all the Barons  
of the Erchequer, the  
Maister of the Rolles,  
and certeyne other Of-  
ficers, where all these  
with one comen assent  
doe name of euerie Coun-  
tie thre Knights or Es-  
quiers, whome among o-  
ther of the same Coun-  
tie they take to bee of  
good dispositiō and fame,  
and beste disposed to the  
Office of Shiriffe of  
that Countie: Of the  
whiche thre the Kynge  
chooseth

choſeth one, whom, by his letters patents, he appoynteth Shyrife of the countie, that he is choſen of, for the yeare then following: But he, beſore he receyue hys patent, ſhall ſwear vpon the holy Goſpell, among other articles, that he ſhall well and faythfully and indifferently exercise and do hys office all that yeare, and that hee ſhall receyue or take nothing of any other man then the king, by colour or meane of hys office.

Theſe thynges being thus now preſuppoſed, let vs proceede to the ſearch of thoſe thinges, that wee ſeek for.

vnum tantum eligit, quem per literas ſuas patentes conſtituit Vicecomitē comitatus, de quo eligitur pro anno tunc ſequentē: ſed ipſe, antequam literas illas recipiat, iurabit ſuper ſancta dei Euangelia, inter articulos alios, quod bene fideliter & indifferenter exercebit & faciet officium ſuum toto anno illo, neq; aliquid recipiet colore aut cauſa officij ſui, ab aliquo alio quam à rege.

His iam ſic preſuppoſitis, ad eorum, quę querimus, indaginem procedamus.

*¶ How*



*Fortescue, in commendation*

*How Jurours must be chosen and  
sworne. Cap. 25.*

**Q**uotiescunque  
contententes  
in curijs regis An-  
glia, ad exitū placiti  
super materia facti  
deuenerint, concito  
Iusticiarij per breue  
Regis scribunt vice-  
comiti comitatus in  
quo factū illud fieri  
supponitur, quod ip-  
se venire faciat corā  
eisdē Iusticiarijs, ad  
certū diem per eos  
limitatū, duodecim  
p̄bos & legales ho-  
mines, de vicineto,  
vbi illud factū sup-  
ponitur: qui neutrā  
partiū sic placitan-  
tiū vlla affinitate at-  
tingunt, Ad recog-  
noscendū super eorū  
sacramēta, si factum  
illud factū fuerit, si-

**A** Soft as suters in the  
courts of the king of  
England, are come to the  
issue of theyr plea vpon  
the matter of the fact,  
foorthwith the Iustices  
by vertue of the kinges  
writ, directed vnto the  
Shirife of the countie,  
wherein the deed is sup-  
posed to be done, will him  
to cause to come before  
the same Iustices, at a  
certaine day by them li-  
mitted, xii. good and law-  
full men, neyghbours to  
the place where the fact  
is supposed to be done:  
the same to be such as be  
of no kyn to either of the  
pleaders, to the end that  
by their othes it may cer-  
teinly be knowen, whe-  
ther the deede were done  
as the one partie affir-  
meth,

meth, or els as the other  
partie denyeth. Upon  
the day aforesayd, the  
Shyrife shall retourne  
the sayd writ befoze the  
same Iustices, together  
wth the panell of their  
names, which he here-  
unto hath summoned:  
When they are come,  
eyther partie may refuse  
them, alleaging that the  
Shyrife hath made that  
pannell fauorablie for  
the other partie, of per-  
sones not indifferent:  
Which exception, if it  
bee found true by the  
oath of twoo men of  
the same pannel chosen  
thereunto by the Iusti-  
ces, that pannel shall  
immedyately bee quas-  
sed: And then the Iusti-  
ces shall writ to the Co-

cut vna earundē par-  
tiū dicit: vel non, si-  
cut altera pars negat.  
Quo adueniēte die,  
vicecomes returna-  
bit breue p̄dictū co-  
rā oīdē Iusticiarijs,  
vna cū pannello no-  
minum eorum, quos  
ipse ad hoc summo-  
nuit, quos (si vene-  
rint) vtraque pars re-  
cusare poterit, dicē-  
do quod vicecomes  
panellū illud fauora-  
biliter fecit pro parte  
altera, v. z. de perso-  
nis minus indifferē-  
tibus: Quę exceptio,  
si cōperta fuerit vera  
per sacramentū di-  
orū hominū de eo-  
dem pannello, ad hoc  
per Iusticiar' electo-  
rū, mox panellū illud  
quassabitur, & Iusti-  
ciarij tunc scribent

Coro-



*Fortescue, in commendation*

Coronatoribus eius-  
dē comitatus, quod  
ipsi nouū faciāt pa-  
nellum. Quod cum  
fecerit, si & illud cō-  
similiter repertū fu-  
erit viciatū, etiam &  
illud quassabitur: Et  
tūc Iusticiarij eligēt  
duos de clericis cu-  
rię illius, vel alios de  
eodē comitatu, qui  
in præsētia curię per  
eorū sacramenta fa-  
cient indifferens pa-  
nellū, quod deinde  
per nullam partium  
illarum calumniabi-  
tur: Sed cū venerint  
sic impanellati in cu-  
ria, quęlibet partium  
excipere potest con-  
tra personam cuius-  
cunq; eorū, sicut &  
potest in omni casu  
& omni tēpore quo  
aliquis qualitercūq;

roners of the same coun-  
tie, that they shall make  
a new pannell. Which  
when they haue done,  
if it bee lykewise found  
faultie, it shall also be  
quassed: And then the  
Iustices shall elect and  
choose two of the clerkes  
of the same court, or  
other of the same coun-  
tie, whych in the prę-  
sence of the court vpon  
their oathes shall make  
an indifferent pannell,  
whych by neither of the  
partyes shall be challen-  
ged: Howbeit, when  
the men so impannel-  
led are come into the  
court, eyther of the par-  
tyes may make excepti-  
ons agaynst the person  
of any of them, as hee  
may also do in all cases  
and at all times, when  
any man by any meanes  
impa-

impanelled shall appere to be sworne in y<sup>e</sup> court bp<sup>o</sup> the truth of such an issue: saying, that the pers<sup>o</sup> impanelled is co-  
sin or alied to the other party, or by any kind of amity so knie vnto him, that he is not indifferēt to declare the truth betwene thē: and of these exceptions there are so many kinds and sorts, that they cannot bee in few wordes rehearsed.

¶ Whereof, if any one be found true, thē shal not he bee sworne, against whom the exception is proposed, but his name shall be cancelled in the pannel. So also shall be done of al the names of the persons impanelled vntill xii. of them so indifferēt be sworn, that

impanellat<sup>9</sup>, cōparue-  
rit in cur<sup>a</sup> super veritate  
exitus huiusmodi iura-  
turus, dicendo, qđ im-  
panellatus ille, est con-  
sanguineus, vel affinis  
parti alteri, vel amicitia  
quacunq; tali sibi cō-  
iunctus qđ indifferens  
iple nō est ostēdere in-  
ter eos veritatē: qualiū  
exceptionum tot sunt  
genera & speciēs, qđ  
non licet eas breui ex-  
plicare sermone. Qua-  
rum si aliqua reperta  
fuerit vera, nō tunc iu-  
rabitur ille contra quē  
exceptio illa proponi-  
tur, sed cancellabitur  
nomē eius in pannello.  
Sic quoq; fiet de om-  
nibus nominibus im-  
pannellatorum, quo-  
usque xij. eorum iurē-  
tur ita indifferentes,  
H. j. quod



*Fortescue, in commendation*

quod versus eos neu-  
tra partium habeat ali-  
quam materiam ca-  
lumpniæ: horum autē  
xij. ad minus iij. erunt  
de hundredo, vbi villa  
in qua factum, de quo  
contenditur, fieri sup-  
ponitur, sita est: &  
quilibet iuratorum hu-  
iusmodi habebit terras  
vel redditus pro ter-  
mino vitæ suæ, ad mi-  
nus ad valorem annu-  
um xl. s. Et hic ordo  
obseruatur in omni-  
bus accionibus & cau-  
sis criminalibus, reali-  
bus & personalibus,  
præterquam vbi dam-  
na vel debitum in per-  
sonalibus non exce-  
dunt xl. marcas mo-  
netæ Anglicæ, quia  
tunc non requiritur,  
quod iuratores in acti-  
onibus huiusmodi tan-  
neither party can haue  
against them any mat-  
ter of exception or chal-  
lenge: Also of these xii.  
iiii. at the least shalbe of  
the hundred, where the  
village standeth, where-  
in the fact whereupon  
the suite ryseth, is sup-  
posed to be done: And e-  
uerie such Juror shall  
haue landes or reue-  
nues for terme of life, at  
the least, to the yearely  
value of xl. s. And this  
order is obserued and  
kept in all actions and  
causes criminall, reall,  
and personall, sauinge  
where the dammages  
or debt in actions perso-  
nall exceedeth not the  
summe of xl. markes of  
English money: For  
then it is not requisite,  
that Jurers in such ac-  
tions, shall bee able to  
dispende

dispende so much. Yet they shall haue lande or rentes to a competente value after the discrea- tion of the Iustices, O- therwise they shall not bee sworne, leaste for neede and pouertie, such Iurers might ea- selye bee corrupte and suborned. And if by such exceptions, so ma- ny Iurers names bee cancelled in the pan- nell, that their remai- nethe not a sufficient number to make there- of a Iurye, then the sherife by the Kinges writte shall bee com- maunded to adioyne moe Iurers, Which thing maye often bee done, so that for lacke of Iurozs, the inquisition of the trueth vpon such a plea shal not remaine.

tum expendere pos- sint. Habebunt tamen terram vel redditum, ad valorem competen- tem, iuxta discretionē iusticiariorū, alioquin ipsi minime iurabun- tur, ne per inedia[m] & paupertatem iura- torum huiusmodi, de facili valeant corrup- pi aut subornari. Et si per tales exceptiones, tot iuratorū nomina in pannello cancellentur, qđ non remaneat nu- merus sufficiens ad fa- ciendam inde iurata[m] tunc mandabitur vice- comiti per breue re- gis, quod ipse appo- nat plures iuratores, qđ & sepius fieri po- test, ita quod inquisitio veritatis sup exitu pla- citi non remanebit ob defectum iuratorum.

H.ij.

Et.



*Fortescue, in commendation*

Et hæc est forma, qua-  
liter iuratores & veri-  
tatis hñdi inquisitores  
eligi debēt in curia re-  
gis similiter & iurari:  
quare, quomodo ipsi  
de veritate illa dicen-  
da onerari debent & in  
formari, iam restat vt  
quæramus.

*¶ How Iurers ought to be informed by eviden-  
ces and witnesses. Cap. 26.*

**I**Vratis demū in for-  
ma prædicta, xij. pro-  
bis & legalib<sup>9</sup> homini-  
bus habentibus ultra  
mobilia sua possessio-  
nes, vt prædicitur, suffi-  
cientes, vnde eorū sta-  
tum ipsi continere po-  
terunt, & nulli partiū  
suspectis nec inuisis,  
sed eisdē vicinis, lege-  
tur in anglico corā eis  
per curiā, totum recor-  
dum & pcessus placi-  
ti, quod pendet inter

And this is y<sup>e</sup> form, how  
iurers, & inquisitors of  
trueth ought to be cho-  
sen in y<sup>e</sup> kings court, &  
likewise to be swozne:  
Wherefore, how they  
must be charged and in-  
formed of y<sup>e</sup> uttering of  
y<sup>e</sup> same truth, this now  
resteth to be discussed.

**T**welve good & lawful  
men beeing at y<sup>e</sup> last  
swozn in form aforesaid  
hauing besides their mo-  
ueables, sufficiēt posses-  
sions as afoze is declared  
whereby they may be a-  
ble to maintaine their  
owne states, & being to  
neither party suspect or  
hated, but neighbors to  
thē both, then shalbe red  
befoze them in English  
by the court, al y<sup>e</sup> record  
& processe of the plea de-  
pen-

pendinge betweene the parties, with a plaine declaration of the issue of the plea, touching the trueth whereof those swozne men shall certifie the Courte: Whiche thinges beeing done, either party by himselfe or his Counsellours, in the presence of the Courte, shall utter and open to the saide swozne men, all and singuler matters and Euidences, whereby hee thinketh hee may best informe them of the trueth of the issue so impleaded. And then may either partie bring befoze the same Iustices and swozne men, all and singuler suche witnesses on his behalfe, as hee will produce, Who by the Iustices being charged vpon the holy Gospel of God, shal tes-

partes, ac diludice exponetur eis exit<sup>o</sup> placiti, de cuius veritate iurati illi, curiā certificabūt; quibus peractis, vtraq; partium per se vel consiliarios suos, in praesentia curiae, referet & manifestabit eisdē iuratis, omnes & singulas materias & euidēcias, quibus eos docere se posse credit veritatem exitus taliter placitati. Et tunc adducere potest vtraque pars coram eisdem iusticiarijs & iuratis, omnes & singulos testes, quos pro parte sua, ipsa producere velit, qui super sancta dei euangelia per iusticiarios onerati, H.ij. testi-



testificabuntur omnia quæ cognoscunt probantia veritatem facti, de quo partes contendunt. Et si necessitas exegerit, dividuntur testes huiusmodi, donec ipsi de posuerint quicquid velint, ita quod dictum unius, non docebit aut concitabit eorum alium ad cõsimiliter testificandum. Quibus cõsummatis, postquã iuratores illi deinde ad eorum libitum, super veritate exitus huiusmodi, deliberatione, quantã ipsi optabunt, colloquiũ habuerint: in custodia ministrorum curiæ, in loco eis ad hoc assignato, ne interim eos aliqui subornare valeant,

testify all thinges proving the trueth of the facte, whereupon the parties contend. And if neede so require, those witnesses shall be seuered and deuyded, till they haue deposited all that they will, so that the saying of one shall not mooue or prouoke another to testify the like. The premises being done, then after that those Jurors haue had talke at their pleasure, vppon the trueth of that issue, with as much deliberation as themselves shall require, in the keeping of the ministers of the Court, within a place to them for the same purpose assigned, to the intente that no manne in the meane tyme may corrupt them, they shall retourne

returne into the Courte, and certefie the Iustices vpon the verity of the issue so ioyned, in the presence of both the parties, (if they will be there) and specially of the plaintife. The report of which Iurers, by the lawes of England, is called a verdict, by the which worde is meant, a true report, or a report of the truth: And then according to the qualitie of that verdict the Iustices shall frame and forme theyr iudgement. Notwithstanding, if the other party, against whom the verdict is giuen, complaine, that hee is thereby vniustly grieved, then the same party may sue a writ of attainte against those Iuroys, and against the party that hath preuailed.

reuenient illi incuriam, & certificabunt iusticiarios super veritate exitus sic iuncti, in praesentia partium (si interesse velint) & maxime petentis. Quorum iuratorum dictum, per leges Angliae, veredictum nuncupatur, & tunc secundum huiusmodi veredicti qualitatem, iusticiarii reddent & formabunt iudicium suum. Tamen, si pars altera, contra quam veredictum huiusmodi prolatum est, conqueratur se per illud iniuste esse grauatum, prosequi tunc potest pars illa, versus iuratores illos, & versus partem quae obtinuit, breue de attincta.

H.iiij.

Vir-



*Fortescue, in commendation*

Virtute cuius, si cō-  
pertū fuerit per sa-  
cramentum xxiiij.  
hominum, in forma  
prænotata retorna-  
torū, electorū, & iu-  
ratorum, qui multo  
maiora habebūt pa-  
trimonia, quam iu-  
ratores primi, quod  
ijde primi iuratores  
falsum fecerunt sa-  
cramentū, corpora  
eorundē primorum  
iuratorū prisonæ re-  
gis cōmittētur, bona  
eorū confiscabūtur,  
ac omnes possessio-  
nes eorundē in ma-  
nus regis capientur,  
domus quoque eo-  
rum & ædificia pro-  
sternētur, bosci suc-  
cidentur, & prata a-  
rabuntur, ipsi eti-  
am iuratores primi

By force of which Act,  
if it shall be founde by the  
oathe of twenty and foure  
men, in fourme afoze  
sayde retourned, elect,  
and swozne, which shall  
bee men of muche grea-  
ter lpuinges, then the  
first Jurers were, that  
the same first Jurers  
haue made a false oathe,  
then the bodyes of the  
same first Jurers shall  
bee committed to the  
Kinges Prison, theyr  
goodes shall bee confis-  
cate, and all theyr pos-  
sessions shall bee seysed  
into the Kinges handes,  
theyr Houses also and  
Buildinges shall bee ra-  
sed and throwen downe,  
theyr Woodes felled,  
and theyr Meaddowe  
groundes plowed, And  
also the same first Ju-  
rers

pers shall for ever after  
be noted for infamed per-  
sons, and shall in no place  
bee receiued to testifie  
the trueth: And the par-  
tie, which in the former  
plea had the ouerthrowe,  
shalbe restored to all  
thinges, whiche by occa-  
sion thereof he hath lost.  
Who then, though hee  
regarde not his soules  
healthe, yet for feare of so  
greate punishment, and  
for shame of so greate in-  
fame, would not vpon  
his othe declare the truth,  
And if one man perauen-  
ture haue so litle respect  
to hys honour or estima-  
tion, yet somme of so ma-  
nie Iurours will not  
neglect their owne good  
fame, nor will not tho-  
rough their owne de-  
fault, suffer themselves

extunc infames e-  
runt, nec alicubi  
recipientur in testi-  
monium veritatis:  
& pars, quæ succu-  
buit in priori pla-  
cito, restituerur ad  
omnia, quæ ipse per-  
didit occasione ei.  
Quis tunc (et si im-  
memor salutis ani-  
mæ suæ fuerit) non  
formidine tantæ pœ-  
næ, & verecundia  
tantæ infamiæ, veri-  
tatem nō diceret sic  
iuratus, & si vnus  
forsan tantus sui ho-  
noris prodigus esse  
non pepercerit, ali-  
qui tamen iurato-  
rum tantorum fa-  
mam suā nō negli-  
gent, neq; bona &  
possessiones suas ta-  
liter distrahi patien-  
tur,



*Fortescue, in commendation*

tur, propria culpa  
sua. Nonne iam,  
hic ordo reuelandi  
veritatem, potior &  
efficacior est, quam  
est processus, qualē  
pariunt Ciuiles le-  
ges? Non hic peri-  
unt causæ aut ius a-  
licuius, per mortē,  
aut ob defectum te-  
stium, non hic pro-  
ducuntur testes ig-  
noti, conducticij,  
pauperes, vagi, in-  
constantes, aut quo-  
rum cōditiones vel  
malicię ignorantur.  
Vicini sunt testes  
isti, de proprijs vi-  
uere potētes, famæ  
integræ, & opinio-  
nis illasæ, non per  
partem in curiam  
ducti, sed per offi-  
ciariū nobile & in-  
thus to be spoiled of their  
goodes and possessions.  
Is not this order now for  
the houltinge out of the  
trueth better and more  
effectuall, then the pro-  
cesse whiche the Ciuile  
lawes do procure? Here  
no cause, nor no mans  
righte quayleth through  
death or for want of wit-  
nesses, Here are not  
brought forth unknow-  
en witnesses, hyred per-  
sons, poore men, бага-  
bonds, vncōstant people,  
or such, whose condition,  
and naughtinesse is un-  
known. These witnes-  
ses are neighbours habile  
to lyue of their owne, of  
good name and fame,  
of honeste repozte, not  
brought into the Court  
by the partie, but by a  
worshipfull and indif-  
ferent

ferent Officer chosen, and so compelled to come befoze the Iudge. These knowe all, that the witnesses are habile to depose, and they knowe also the constancie and uncon- stancie of the witnesses, and what reporte goeth bypon them. And what will yee haue moze. Doubtlesse, there is no- thing, that maye dis- close the trueth of anie doubtte fallyng in con- tention, whiche can in any wise bee hidde from suche Iurers, so that it bee possible for the same to come to mans knowledge.

differētem electi, & coram iudice veni- re compulsi. Isti omnia sciunt, quæ testes deponere no- runt, & isti testium productorū agnos- cunt cōstantias, in- cōstantiasq; & famā. Quid vltra? verē ni- hil est, quod verita- tē dubij, de quo cō- tendi poterit, dete- gere valebit, quod iuratoribus talibus latere quomodoli- bet potest aut igno- rari, dūmodo possi- bile sit, illud venire posse in agnitionem humanam.

*¶ Here he sheweth, how causes criminal, are determined in England.*

*Cap. 27.*

*Sed*



*Fortescue, in commendation*

**S**Ed quomodo in criminalib' leges Angliæ scrutantur veritatem, etiam rimare pernecessariū est, vt & in eis plenarie agnita ambarrū legū forma, quæ earum efficacius latentē reuelat veritatē certius agnoscamus. Si reus quispiā de feloniam aut pditione in Angliā rettat°, crimen suū corā iudicib' dedicat, mox vicecomes comitatus, vbi facinus illud cōmissum est, venire faciet coram eisdem iudicib', viginti quatuor probos & legales homines de vicineto villæ, vbi illud factum est, qui rettatū

**B**Ut it is also necessarie to discus, how in matters criminal, the lawes of Englands doe fetch out the truthe, that perfectly vnderstanding the fourme of bothe the Lawes, wee may the moze certainly perceiue and knowe, whether of them both doth moze effectually discover the hidden cruth. If any mā accused of felonie or treason in Englands, doe at his arraignment before the same Judges denie the offence, forthwith the Sherife of the Countie, where the deed was done, shall cause to come before the same Judges fower & twentie good and lawfull men dwelling nighe to the village, where the fact was donne, such men as  
to the

to the partie accused be  
no thing allyed : and such  
as euery of them hath  
an hundred shillings of  
landes and reuenues,  
to certifie the Judges  
vppon the trueth of the  
crime. Which at theyr  
apparaunce the partie  
accused may challenge,  
in lyke sort as in acti-  
ons reall may be done,  
as afoze is described.  
And mozeouer the same  
partie in fauour of hys  
lyfe may challenge fyue  
and thirty men such as  
hee most feareth : which  
vpon hys challenge shall  
bee cancelled in the pan-  
nell, or shall bee noted  
wyth such markes, that  
they shall not passe vppon  
hym : though hee  
bee not able to shewe  
any cause of hys ex-

illum nulla affinitate  
atingunt, & quorū  
quilibet C.s. habeat  
terre & redditus, ad  
certificandū Iudices  
illos super criminis  
illius veritate. Qui-  
bus comparētibus,  
retratus ille eos ca-  
lūpnare potest, ea-  
dē forma, qua in ac-  
tionibus realib<sup>9</sup> fieri  
debere superius de-  
scribitur. Et insuper  
reus ipse in fauorem  
vitę suę calumpniare  
potest 35. homines,  
quos ipse maxime  
formidat, qui ad eius  
calūpniā cancella-  
būtur in pannello, aut  
signistalib<sup>9</sup> notabū-  
tur, quod (vt verbis  
legis vtar) illi super  
eum nō transibunt,  
licet ipse nullā cau-  
sā assignare sciat ex-  
cepti-



*Fortescue, in commendation*

ceptionis seu calumpniæ suæ. Quis tunc mori posset inique in Anglia pro crimine, cum tot iuamina habere ille poterit ob fauorem vitæ suæ, & non nisi vicini eius, probi & fideles homines, versus quos ipse nullam habet materiam exceptionis, eum condemnare poterunt? Mallem reuera viginti facinorosos mortē pietate euadere, quam iustum vnum iniuste condemnari. Nec tamē reum quēpiam sub hac forma, reatus sui penam euadere posse suspicandum est, dum eius vita et mores timori deinceps

ception and challenge. Who then can vniustly dye in England for any criminall offence, seeing hee may haue so many helpes for the fauour of his lyfe, and that none may condempne him but hys neyghbours, good and lawfull men, against whom hee hath no matter of exception. In deede I would rather with twenty euill doers to escape death through pitie, then one man to bee vniustly condempned. And yet it is not to bee suspected, that any offendour can vnder thys fourme, escape the punishment of hys offence, forasmuch as hys lyfe and conuersatyon shall bee afterward a terrour to them that haue thus

thus cleared hym of the  
crime. In thys kind of  
proceeding there is no  
cruelty or extremity vled,  
Neither can the innocent  
& vnguilt person be hurt  
in hys body or limmes:  
Therefore he shall not  
stand in fear of the flaunder  
of his enemies, because  
he shall not be racked  
or tormented at their  
will and pleasure. Thus  
vnder thys Law a man  
may passe his life wyth  
quietnesse and safetie.  
Judge you therfore, most  
noble Prince, whether of  
these lawes ye had rather  
chuse, if you should liue  
a priuate life.

erūt eis, qui eum sic  
purgarunt à crimine.  
In hoc equidē pro-  
cessu, nihil est cru-  
dele, nihil inhumana-  
num, nec lædi pote-  
rit innocens in cor-  
pore aut membris  
suis; Quare nec for-  
midabit ille calūp-  
niam inimicorum e-  
ius, quia nō torque-  
bitur iste ad arbitriū  
ipsoꝝ. Sub hac igitur  
lege viuere qui-  
etum & securum est.  
Iudica ergo, Prin-  
ceps optime, quē le-  
gū harū tibi electus-  
sima foret, si tu pri-  
uatā spirares vitam,

*The Prince graunteth the Lawes of England to  
be more commodious for the subiectes, then  
the Ciuill Lawes in the case now  
disputed. Cap. 28.*

Cui



*Fortescue, in commendation*

**C**Vi Princeps, ar-  
duum ambigu-  
umue, Cancellarie,  
non conspicio, quod  
morosum nie titu-  
bantemue redderet  
in electione rei, quā  
interrogas. Nam  
quis non sub lege,  
qua securam ducere  
posset vitam, viuere  
potius eligeret, quā  
sub lege tali, sub qua  
inermem, indefen-  
sumq; se seper red-  
deret scutix omni-  
um inimicorū eius?  
Verē, tutus quisquā  
esse non poterit in  
corpore, aut in bo-  
nis, quem inimicus  
eius (in omni causa)  
conuincere poterit,  
testibus duobus etiā  
ignotis, per ipsūmet  
electis & productis.

**W**Hereunto the  
Prince answered  
red and said: I see no  
harde or strange matter,  
good Chauncellour, that  
should make mee doubt-  
full or daungerous in  
the election and choyse  
of the thing that ye aske.  
For who would not ra-  
ther choose to lyue vn-  
der that lawe, where-  
vnder hee myght lyue  
in securitie, then vnder  
that law, which would  
set hym naked and suc-  
courlesse against the cru-  
eltie of hys enemyes?  
Verelie no man can bee  
safe in bodie or goodes,  
whom hys aduersarye  
may conuince in eue-  
ry cause, wyth twoo  
unknownen wytnesses,  
of hys owne choosing  
and bringing forth.

And

And though a man be not compelled by their sayings to die, yet is he little relieved, y<sup>e</sup> hath escaped death, being shonke in all his sinnewes and limmes and cast into a perpetuall impotencie of his bodye; And truely into such danger maye the crafte of a spitefull person bring a nie manne, that lyueth vnder the Lawe; which heere while you spake of. But such mischiefe and inconuenience cannot bee wrought by witnesses, that mak their depositions in the presence of twelue credible men, neighbours to the deede, that is presently in question, and to the circumstances of the same: which also knowe the manners and conditions of y<sup>e</sup> same wit-

Edilect quis mortē, pericula eorum, subire nō cogatur, parum ta. nē releuatur ipso, qui mortem eluasit, contractione neruorum, & membrorum suorum; atq; corporis eius languore ppetuo. Tali reuera discrimini impellere potest inimici astutia omnem hominē, qui sub lege degit, quā tu iam dū dū explicasti. Sed tale malum operari nequiunt testes, qui depositiones suas faciunt, in præsencia duodecim fide dignorum virorum, facto vicinorum, de quo agitur, & circumstantijs eius: qui & noscunt eorundē testi-



*Fortescue, in commendation*

um mores, maxime  
si vicini ipsi fuerint,  
nescunt etiam, & si  
ipsi sint credulitate  
digni. Omnes eti-  
am duodecim tales  
latere omnino non  
poterit, quicquid  
actum est, per, aut  
inter vicinos eo-  
rum. Nosco nam-  
que ego certius,  
quæ iam aguntur  
hic in Barro, ubi  
sum modo conuer-  
satus, quam quæ in  
Anglia fiunt. Nec  
effugere posse puto  
notitiam probi viri  
ea, quæ aguntur, li-  
cet quodammodo  
occulte, prope do-  
micilium eius. Sed  
tamen cur prædicta  
lex Angliæ, quæ tam  
frugi & optabilis est

nesses, especially if they  
bee nigh dwellers, and  
know also, whether they  
be men worthe to bee  
credited or no. And fur-  
ther all those xii. can not  
bee ignorant in those  
things, that were done  
by and amonge theyr  
neighbours. For I knowe  
more certaynelpe the  
things that are donne  
heere in Barro, where I  
am nowe remayninge,  
then those things that  
are donne in Englande.  
Neither doe I thinke,  
that things can bee kept  
from the knowledge of a  
good and honest man, be-  
ing done nigh to his house  
and almost vnder his  
nose, bee they neuer so se-  
cretly done. But yet I  
maruaile much, why the  
foresaid law of England,  
which

which is so good and com-  
modious, is not common  
to all the whole world.

non est toti mundo  
communis, vehe-  
menter admiror.

*Why inquestes are not made by Iurers of xijs  
men in other Realmes, as well as in  
England.* Cap. 29.

**Y**our highnesse came  
verie younge out of  
Englande. (quod the  
Chauncellour) so that the  
disposition and qualite  
of that lande is unknow-  
en unto you. Which if  
yee knowe, and shoulde  
compare therewith the  
commodities, and qua-  
lities of other Coun-  
tries, you would nothing  
maruaile at these things,  
whiche nowe doe trou-  
ble your mynd. In deede  
England is so fertile and  
fruitfull, that compa-  
ring quantite to quantite,

**C** Ancellarius,  
Iuuenis recessi  
sisti (princeps) ab  
Anglia, quo tibi ig-  
nota est dispositio,  
& qualitas terræ il-  
lius, quas si agno-  
ueris, & cæterarum  
regionum emolu-  
menta qualitatesq;  
eisdem comparaue-  
ris, non admirare-  
ris ea, quibus iam a-  
gitatur animus tuus.  
Anglia sane tam  
fertilis est, quod  
quantitate ad quan-  
tatem comparata,

Iij.

ipsa



*Forrescue, in commendation*

ipsa ceteras omnes  
quasi regiones ex-  
superat vbertate fru-  
ctuum, etiam suum  
vltro ipsa profert, vix  
industria hominis  
concitata. Nam agri  
eius, campi, saltus &  
nemora, tanta fecun-  
ditate germina e-  
bulliunt, vt inculta  
illa, saepe plus com-  
modi afferant pos-  
sessoribus suis, quam  
arata, licet fertilissi-  
ma ipsa sint, legi-  
tum, & bladorum.  
Includuntur quoq;  
in terra illa, pastura-  
rum arua, fossatis,  
& sepibus, desuper  
arboribus plantatis,  
quibus muniuntur  
a procellis & æ-  
stu solis, eorum gre-  
ges & armenta;

it surmounteth all other  
landes in fruitfulnessse,  
Yea it bringeth forth  
fruite of it selfe, scant  
prouoked by manns in-  
dustrie and labour. For  
there the landes, the  
fieldes, the groues, and  
the woodes, doe so a-  
bundauntly springe,  
that the same untilled  
doe commonly yeelde  
to their owners more  
profite then tilled, though  
else they bee most fruit-  
full of Corne and graine.  
There also are fieldes  
of pasture inclosed with  
Hedges and Ditches,  
with trees planted and  
growynge vppon the  
same, which are a de-  
fence to their hearde  
of Sheepe and cattell,  
agaynst stormes and  
heatte of the Sunne,  
And

And the pastures are commonly watered, so that Cattell shutte and closed therein, haue no neede of keeping, neither by daye, nor by night. For there bee no Woolues, nor Beares, nor Lyons, Wherefore their Sheepe lye night by night in the fieldes vnkept within theyr Foldes, wherewith their Lande is manured. By the meanes whereof, the men of that Countrey are scant troubled with anye painefull labour, Wherefore they liue more spiritually, as did the ancient Fathers, whiche did rather choose to keepe and feede Cattell, then to disturbe the quietnes of the minde with care of Husbandry.

ipsæque pasturæ ut plurimum irriguæ sunt, quo infra earum claustra reclusa animalia, custodia non egent, per diem, nec per noctem. Nam ibi lupi non sunt, ursi, nec Leones, quare de nocte oues eorum incustoditæ in campis recumbunt, in caulis, & ouilibus, quibus impinguntur terræ eorum. Vnde homines patriæ illius, vix operis sudore grauantur, quare spiritu ipsi magis viuunt, ut fecerunt patres antiqui, qui pascere mallebant greges, quam animi quietē agriculturæ solitudine turbare.

I.iiij.

Et



*Fortescue, in commendation*

Ex quibus, homines  
regionis istius, apti  
magis redduntur &  
dispositi ad discer-  
nendum in causis,  
quæ magnifunt ex-  
aminis, quam sunt  
viri, qui telluris ope-  
ribus inhabitantes,  
ex ruris familiarita-  
te mentis contrahūt  
ruditatem. Regio et-  
iā illa, ita respersa,  
refertaque est pos-  
sessoribus terrarū  
& agrorum, quod  
in ea, villulata par-  
ua reperiri non po-  
terit, in qua non est  
miles, armiger, vel  
pater familias, qualis  
ibidē *Franklain* vul-  
gariter nuncupatur,  
magnis ditatus pos-  
sessionibus, necnon  
libere tenentes alij,

And heereof it com-  
meth, that menne of  
this Countrey are moze  
apte and fittē to dis-  
cerne in doubtfull cau-  
ses of great examina-  
tion and trespall, then  
are menne whollie gy-  
uen to moyling in the  
grounde: in whome  
that rurall exercise in-  
gendereth rudenelle of  
witte and minde. More-  
ouer the same Coun-  
trei is so filled and re-  
plenished with Landed  
menne, that therein so  
small a thorpē cannot  
bee founde, wherein  
dwelleth not a Knight,  
an Esquire, or suche a  
Housholder, as is there  
commonly called a frank-  
layne, enryched wyth  
greate possessions. And  
also other Freeholders,  
and

and many Yeomen able  
foz their liuelodes to  
make a Turpe in fourme  
afoze mentioned. For  
there bee in that Lande,  
diuers Yeomen, which  
are able to dispende by  
the yeare aboue a hundred  
poundes, Wherefoze the  
Turpes afoze declared, are  
there very oft made, spe-  
ciallye in great matters,  
of Knights, Esquires,  
and others, whose pos-  
sessions in the whole a-  
mounteth yearly aboue  
the summe of fīue hundred  
markes.

Wherefoze it cannot  
bee thought, that such  
menne can bee suborned,  
oz that they will bee per-  
iured, not onely foz that  
they haue befoze their  
eyes the feare of God,  
but also, foz that they

& valecti plurimi,  
suis patrimonijs suf-  
ficientes, ad facien-  
dum iurata in for-  
ma prænotata. Sunt  
namque valecti di-  
uersi in regione il-  
la, qui plusquam  
sexcenta scuta per  
annum expendere  
possunt, quo iurata  
superius descripta,  
sæpissime in regio-  
ne illa fiunt, præser-  
tim in ingentibus  
causis, de militibus,  
armigeris, & alijs,  
quorum possessiones  
in vniuerso ex-  
cedunt duo millia  
scutorum per annū.  
Quare cogitari ne-  
quit, tales subornari  
posse, vel periurari  
velle, nedum ob ti-  
more Dei, sed & ob



*Fortescue, in commendation*

honorem suum cō- haue a carefull regarde  
seruandum, & vitu- to the preservation of  
perium, dampnum they? Honours, and to  
quoque inde con- the eschewing of re-  
sequitium euitan- proache and damage  
dum, etiam, ne eo- thereuppon ensuyng, and  
rum hæredes ipso- also that they? heyyes  
rum lædantur infā- bee not impeached tho-  
mia. Taliter, fili re- rough they? infamy. Af-  
gis, disposita, inha- ter this manner, O  
bitataque non sunt mightye Prince, are  
aliqua alia mundi none other Realmes of  
regna. Nam, licet in eis sint the world disposed and in-  
viri magnæ poten- habited.  
tiæ, magnarum o- For though there bee  
pum & possessio- in them men of greate  
num, non tamen power, of greate ri-  
eorum vnus prope ches, and possessions,  
moratur ad alte- yet they dwell not one  
rum, vt in Anglia nyghe to another, as  
tanti morantur viri, suche greate men doo in  
nec tanta, vt ibi, Englande, Neyther so  
hæreditatorum est many inheritours and  
copia & possidenti- possessours of Lande are  
um terras. elsewhere, as in Eng-  
lande,

For

For in a whole towne of  
anie other Countrey, it  
is harde to finde one  
man, whiche for his  
lyuelode is hable to bee  
receyued into a Iurie.  
For there, except it bee  
in Cities, and walled  
Townes, verpe fewe  
there bee, beside No-  
ble men, that haue anie  
possessions of landes or  
other immoueables. The  
Noble menne also haue  
there small stoze of pa-  
sture, And to labour in  
Vineyardes, or to put  
their hāds to the plough,  
that is unfitte for their  
estate and degree, And  
yet in Vineyardes, and  
eareable grounde consti-  
teth the Substaunce of  
their possessions, sauing  
onely a fewe fieldes nexte  
adiopninge to great ri-

Vix enim in villata  
vna regionū aliarū  
reperiri poterit vir  
vn<sup>o</sup> patrimonio suf-  
ficiens, vt in iuratis  
ipse ponatur. Nam  
rarò ibidem, aliqui  
præternobiles repe-  
riuntur possessores  
agrorū, aliorūue  
immobilium, extra  
ciuitates & meratas  
villas. Nobiles quo-  
que ibidem, pastu-  
rarum copiam non  
habēt, & vineas co-  
lere, aut aratro ma-  
nus apponere, sta-  
tui eorum non con-  
uenit, tamen in vi-  
neis & terris arabi-  
libus cōsistit subttā-  
tia possessionū eo-  
rum, exceptis solū  
pratis quibusdā, ad-  
iacētibus magnis ri-  
parijs,



*Fortescue, in commendation*

parijs, & exceptis  
boscis, quorum pa-  
sturæ cōmunes sunt  
tenentibus, & vici-  
nis suis. Quomodo  
tunc, in regionibus  
talibus iurata fieri  
poterit, ex duode-  
cim probis homi-  
nibus de vicineto,  
vbi factum aliquod  
in iudicio deduci-  
tur, cum vicini dici  
non poterunt, qui  
tanta distantia di-  
stinguuntur? Vere  
remotos multum  
a facto duodecim  
iuratos ibidem esse  
oportebit, post-  
quam reus in regio-  
nibus illis, triginta  
quinque (sine assigna-  
ta causa) de pro-  
pinquiorib<sup>9</sup> calum-  
niauerit: quare aut

uers, and sayyng also  
certeine Moores, the pa-  
stures whereof are com-  
mon to their tenants  
and neyghbours. Howe  
then can a Turpe bee  
made in suche Coun-  
tries of twelue substan-  
tiall menne, nighe ad-  
ioyninge to the place of a-  
ny deed brought in iudge-  
ment, seeyng they can-  
not bee called neygh-  
bours that dwell so farre  
asunder. Truly twelue  
sworne men there muste  
needes bee, farre di-  
staunt from the place of  
the deede, when the de-  
fendant in those Coun-  
treys hath challenged  
thirtie five menne of the  
next dwellers, with-  
out shewing any cause  
why: Wherefore,  
in those landes a Turpe  
muste

musse bee made, eyther  
of suche, as dwell farre  
of from the place of the  
deede that is in contro-  
uersie, and therefore  
cannot attayne to the  
knowledge of the trueth  
thereof, or els it must be  
made of poore men, that  
bee not ashamed of infamie,  
neyther doe feare  
the losse of their goods,  
whiche they haue not,  
They also blinded with  
rusticall and brute rude-  
nesse, are not able to be-  
hold the cleere brightnes  
of the truth.

Harueyle not therfore  
most worthe Prince, if y  
Law, whereby the trueth  
is sifted out in England,  
bee not frequented and  
used in other nations,  
For they are not hable  
to make sufficient and

de multum remo-  
tis a facto, de quo  
contenditur, qui  
veritatem facti non  
agnoscunt, in reg-  
nis illis oportebit  
facere iuratum, aut  
de pauperibus, qui-  
bus non est vere-  
cundia infamiae,  
nec timor iacturae  
bonorum suorum,  
cum ipsa non sint,  
ipsi etiam rustici-  
tatis ruditate ob-  
cecati, veritatis cla-  
ritatem nequeunt in-  
tueri.

Non igitur mi-  
reris, Princeps, si  
Lex, qua in An-  
glia veritas inqui-  
ritur, alias non per-  
uagetur nationes,  
ipsae nanq; , vt An-  
glia, facere neque-  
unt



*Fortescue, in commendation*

unt sufficientes cō- like Iuries, as hee made  
similésque iuraras, in England.

*¶ Here the Prince commendeth, the  
Laws of Englande, of their  
proceeding by Iuries,*

*Cap. 30.*

**T**Vnc Princeps,  
Comparationes  
odiosas esse licet  
dixerimus, lex ta-  
men Ciuilis, in  
comparatione per  
te facta, omni se  
purgabit à crimi-  
ne: quia, licet ei  
Legem Angliæ tu  
prætuleris, odium  
inde ipsa non me-  
retur, dum neque  
eam, neq; condito-  
res eius increpasti:  
Sed solum patriam,

**T**Hough we haue said,  
(of the Prince) that  
comparisons are odious,  
yet the Ciuile Lawe in  
the comparison by you  
made, hath cleared it selfe  
from all blame: For,  
though you haue proued  
the lawe of Englande to  
bee of more excellencie  
then it, yet it deserueth  
not thereby to bee odi-  
ous, for so muche as you  
haue blamed neyther it,  
nor the makers thereof:  
But haue shewed the  
coun-

countrey, where it ruleth  
to be the onely cause, why  
it doth not, in matters of  
doubt, trie out the trueth  
wyth so commendable a  
kind of proceeding, as  
the Law of England  
doth. But as touching  
that the Law of Eng-  
land, in the case by you  
now discussed, is more fit  
& meete for that realme,  
then the Ciuill law, here-  
of wee may not doubt.  
Therefore, we are not  
desirous to chaunge it  
for the Ciuill law: How-  
beit this preeminence of  
the Law of England,  
procedeth not of the  
fault of the other, for  
it is onely the fertilitie  
of England, that hath  
caused it to bee such as

vbi illa regit, cau-  
sam esse demon-  
strasti, quod non  
tam optabili pro-  
cessu, vt lex An-  
glia, ipsa in du-  
bijs elicit veritatem.  
Legem veró An-  
glia, in casu iam  
per te disputato, ac-  
comodatiorē esse  
regno illi, quā  
est Lex Ciuilis, am-  
bigere non fini-  
mur, quo, eam pro  
Ciuili commutare  
non appetimus.  
Sed tamen hec Le-  
ges Anglia, pra-  
eminentia, ab al-  
terius crīmine non  
euenit, solum ce-  
nim eam, Anglia  
fertilitas sic causa-



*Fortescue, in commendation*

*The Prince doubteth, whether this proceeding by a Iurie, be repugnant to Gods law, or not.*

*Cap. 31.*

**S**ED, licet non infirmé, Cancellarie, nos delectet forma, qua leges Angliæ in contentionibus reuelant veritatem, tamen, an modus ille sacræ repugnet scripturæ, vel non, paululum agitatur: Ait namque Dominus Phariseis, Iohān viij. In lege vestra scriptum est, quia duorum hominum testimonium verum est, et huic applaudens Dominus inquit:

**B**UT, though wee be greatly delighted in the forme, which the Lawes of England vse in sifting out the trueth in matters of contention, yet whether the same law be contrary to holy Scripture or not, that is to vs somewhat doubtful: For our LORD sayeth to the Phariseis in the eight chapter of Saint Iohns Gospell: In your law it is written, that the testimonie of two men is true: And the Lord confirming the same sayeth: I am

I am one that beare wit-  
nesse of my selfe, and  
the father, that sent me,  
beareth witnesse of me.  
Now say, the Phara-  
sies were Jewes, so that  
it was all one to say: It  
is written in your Law,  
and it is written in Moy-  
ses Law, wherch God  
gave to the chyldren of  
Israell by Moyses.  
Wherefore to gaynelap  
chys Law, is to denie  
Gods Law: Where-  
by it followeth, that if  
the Law of Englande  
swarue from chys law,  
it swaruech also from  
Gods Law, which in no  
wise may be contraried.  
It is written also in the  
eyghteenth Chapiter of  
Saint Mathewes gospel,

ego sum, qui testi-  
monium perhibeo  
de me ipso, & testi-  
moniu perhibet de  
me, qui misit me,  
pater. Pharisei quip-  
pe Iudei erant, unde  
idem erat dicere, in  
lege vestra scriptum  
est, & in lege Moy-  
sayca (que a Domi-  
no, per Moysen, filijs  
Isracl, prolata fuit)  
scriptum est. Quare  
huius legi contraire,  
legem diuine vestra-  
grati, quo sequitur,  
quod lex Anglia,  
si ab hac lege dis-  
cedat, a lege di-  
uina, cui reluctari  
non licet, ipsa dis-  
cedit. Scribitur eti-  
am Matth. .xvlij.  
quod



*Fortescue, in commendation*

Quod dominus (lo-  
quens de correcti-  
one fraterna) inter  
alia sic ait: Si au-  
tem non te audie-  
rit frater tuus, ad-  
hibe tecum adhuc  
vnum aut duos,  
ut in ore duorum  
vel trium, fiet om-  
ne verbum, scilicet  
in ore duorum vel  
trium, dominus  
omne verbum sta-  
tuerit, frustra plu-  
rium hominum  
queritur in dubijs  
veredictum. Ne-  
mo enim potest,  
melius, aut ali-  
ud fundamentum  
ponere, quam po-  
suit dominus.  
(Hæc sunt, Can-  
cellarie, quæ me, de

Where the Lord, spea-  
king of brotherly ad-  
monition, among other  
things sayeth thus: But  
if thy brother heare thee  
not, then take yet with  
thee one or two, that,  
in the mouth of two or  
three witnesses, every  
matter may bee establi-  
shed. If the Lord haue  
appoynted every matter  
to be established in the  
mouth of two or three  
witnesses, then it is in  
vaine for to seeke for the  
verdict of many men in  
matters of doubt. For  
no man is able to lay  
any othen or better foun-  
dation then the Lord hath  
laide. These are the doub-  
tes, good Chauncellour,  
whych, touchyng the  
pro.

proceeding of the lawe of England in the tryall of matters doe somewhat trouble mee. Therefore, what answer may hereunto bee made, I woulde gladly learne of you.

legis Angliæ processu in probationibus, aliquantulum conturbant. Quare, quid his respondendum est a te, doceri deponso.

*Here is shewed, that the proceeding by a Iurye, is not repugnant to the Law of God. Cap. 32.*

The lawes of England quod the Chauncelloz, are nothing at all repugnant to these things that trouble you, most worthe Prince, though they in matters of doubt do somewhat otherwise boult out the truth. The law of the general councel, wherein it is provided that Cardinals shall not be couicted of criminal offences, otherwise then by y deposition

Cancellari<sup>9</sup>. Non his, quibus turbatis, princeps, contrariantur leges Angliæ, licet aliter quodammodo ipsæ in dubijs eliciant veritatem. Quid duorum hominum testimonio obest lex illa generalis concilij, qua cauetur, ut non nisi duodecim testium depositione

K. j.

cardi-



*Fortescue, in commendation*

cardinales de criminibus cōuincantur? Si verum est duorū testimonium, a fortiori, testimonium duodecim verū iudicari debet, dicente iuris regula: *Plus, semper in se continet, quod est minus*. Supererogationis meritum promittebatur stabulario, si plus quam duos, quos recepit, denarios, ipse in vulnerati curationem erogasset. Nonne plusquam duos aut tres testes producere oportebit quempiam, qui absentem se fuisse probare nititur, tempore criminis si bi impositi, quod per duos aut tres testes

of twelue witnesses, is it anye hynderaunce to the testymonie of two men? If the testymonie of two men bee true, of moze force must the testymonie of twelue men bee iudged true, according to a rule of the Law that sayeth: The moze, ever contayneth in it, that which is lesse. The Inholder was promised to bee rewarded with an ouer-plus, if hee bestowed hypon the cure of the wounded man, moze then the two pence, which hee receaued. A man that laboureth to prooue, that hee was absent at the tyme of the offence, wherewith hee is charged, shall it not be needefull for him to bring forth moe then two

two or thre witnesses, when his aduersarie hath prooued, or is ready to prooue the same, by two or thre witnesses: And so hee, that trauaileth to conuince witnesses of per iurie, must of necessitie bring forth many more then they were, so that the testimonie of two or thre men shall not euer be iudged true: But that Lawe must thus bee vnderstanded, that by a lesser number of witnesses then two, the trueth, in matters doubtfull, ought not to bee searched for, as appeareth by Bernardes assygnynge diuers cases, wherein by the Lawes, more then thre witnesses must needes be produced: As in some of them five, and in

aduersarius eius probauit, vel probare parat<sup>9</sup> est? Sic & qui testes de periurio conuincere satagit, multo illis plures, producere necesse habet, quo nō semper ij. vel iij. hominū testimonium verū esse iudicabitur: sed intelligenda est lex illa, quod minore testiū numero quam ij. veritas in dubijs non debet exquiri, vt patet per Bernardū extra. de testi. ca. licet in glosa ordinaria, vbi ipse assignat diuersos casus, in quibus per leges, plures quam tres oportet producere, testes: Vt, in aliquibus eorum v. K. ij.



*Fortescue, in commendation*

& in aliquibus septē:  
per duos etiā testes  
veritatē pbari posse,  
cum non aliter ipsa  
pateret, utiq; leges  
Angliæ affirmant.  
Nam si quæ supra al-  
tum mare extra cor-  
pus cuiuslibet comi-  
tatus regni illius fi-  
ant, quæ postmodū  
in placito coram ad-  
mirallo Angliæ de-  
ducantur, per testes  
illa iuxta legum An-  
gliæ sanctiones pro-  
bari debent. Consi-  
militer quoq; coram  
cōstabulario & ma-  
riscallo Angliæ fieri  
solutum est de facto,  
qd̄ in regno alio ac-  
tum est, dummodo  
ad iurisdictionē cu-  
riæ cōstabularij, cog-  
nitio eius pertineat.

and in some seven. Nor  
yet the Lawes of Eng-  
lande bee not against  
it, but that the trueth  
may bee prooued by two  
witnesses, when it cannot  
otherwise be tryed. For  
if thinges bee donne by-  
pon the Sea without the  
bodie of anye Countie of  
that royaume, which af-  
terwarde bee broughte  
in plea before the Lorde  
Admiral, the same thinges  
by the decrees of the  
lawes of Englande must  
bee prooued by witnesses.  
In like maner it hath bin  
accustomed to bee donne  
before the Constable and  
Marshall of Englande,  
touching a fact that was  
donne in an other roy-  
alme, so that the hear-  
ing thereof appertaineth  
to the Constables Court.

More.

Moreover, in the Courts of certaine Liberties in England, where matters proceede by Lawe merchant, contractes or bargaynes, made amonge Merchants in another Realme, are prooued by witnesses. And this cometh to passe, because that in these cases there bee no neighbours found, by whose oathes, Iuries of twelue men may bee made, as in contractes, and other cases, arising within the Realme of Englande, is accustomed to bee done. Likewise, if a deede, wherein witnesses are named, bee brought into the Kyniges Court, then procelle shall bee made against those witnesses: and they together with twelue Iurers

R.iii.

Etiam & in curijs quarundam libertatum in Anglia, vbi per legem mercatoriam proceditur, probant per testes, contractus inter mercatores extra regnum factos. Quia in casibus his non reperiuntur vicini, per quorum sacramenta, iurata ex duodecim hominibus fieri possunt, prout de contractibus & alijs casibus, infra regnum Angliæ emergentibus, est fieri consuetum. Similiter, si carta, in qua testes nominantur, deducatur in curia Regis, processus tunc fiet erga testes illos, ipsi quoque



*Fortescue, in commendation*

quoq; recognoscent  
simul cū xij. iuratori-  
bus per eorū sacra-  
menta, utrū carta illa  
sit factum eius, cui  
supponitur, an non.  
Quare, legē, qua te-  
stibus veritas extor-  
quetur, lex Angliæ  
non condēnat max-  
ime cum necessitas  
id deposcat: quia &  
sic faciunt ipse leges  
Angliæ, nedū in ca-  
sibus iam notatis, sed  
etiā in quibusdā ca-  
sibus alijs, quas nō  
expedit hic notare.  
Sed per testes solū,  
lex ipsa nunquā litē  
dirimit, quæ per iu-  
ratam xij. hominum  
decidi poterit, cum  
sit modus iste ad  
veritatem eliciendā  
multo potior &

shall by their oathes re-  
cognise, whether the  
same bee his deede or no,  
whose it is supposed to  
bee. Therefore the  
Lawe of Englande re-  
prooueth not the Lawe,  
whiche by witnesses try-  
eth out the truth, speci-  
ally when necessity so re-  
quiteth: For so do the  
Lawes of Englande too,  
not onely in the cases  
now mentioned, but also  
in certaine other cases,  
whereof here to make re-  
hersall it shall not bee ma-  
teriall. Howbeit this  
Lawe neuer determineth  
a controuersie by witnes-  
ses onely, that may be de-  
termined by a Jury of xii.  
men: forsomuche as this  
waye is muche moze a-  
uayleable and effectuell  
for the tryall of the truth  
then

Then is the fourme of  
anye other Lawes of  
the worlde, and fur-  
ther from the daunger  
of corruption and sub-  
ornation. Nor thys  
fourme of procedynge,  
cannot in anye cause  
fayle for wante of wit-  
nesses, nor the testy-  
monyes of witnesses (if  
anye bee) cannot choose  
but come to theyr due  
ende and effecte: Ney-  
ther can such twelue men  
bee forsworne, but that  
for theyr offence they  
must suffer most sharpe  
punishment, and neuer-  
thelesse the partye, by  
theyr depositions grie-  
ued, shall obtayne due  
remedye: And these  
thinges shall not bee done  
by the will and sayings  
of straunge or unknowne

R.iiii.

efficacior, quam est  
forma aliquarū alia-  
rū legū orbis, & re-  
motior a corruptio-  
nis & subornationis  
periculo. Nec potest  
hæc procedēdi for-  
ma in causa aliqua,  
ob defectum testiū  
deperire, neque te-  
stiū (si qui fuerint)  
attestatio, effectum  
debitum non sortiri,  
nec periurari possūt  
duodecim homines  
huiusmodi, quin  
pro eorum crimine,  
ipsi acerbissime pu-  
niantur, & nihilomi-  
nus pars, per eorum  
depositionem gra-  
uata, remedium de-  
bitum consequetur:  
ac, non fient hæc  
per extrane-  
orum aut igno-  
torum



*Fortescue, in commendation*

torum hominū arbi-  
triū aut dictamē, sed  
p̄ proborū, nobiliū,  
& fide dignorū, vi-  
cinorū partibus, sa-  
cramētū, quibus par-  
tes illæ nullā habent  
causam calumpniæ  
aut diffidentia de e-  
orū dicto. O quam  
horrendum & dete-  
stable discrimē sæ-  
pe accidit, ex forma  
per depositionē te-  
stium procedendi!  
Nonne, si quis clan-  
destinum contrahat  
matrimoniu, & po-  
stea corā testib⁹ mu-  
lierē aliā ipse affida-  
uerit, cum eadē cō-  
summare matrimo-  
nium arctabitur in  
foro cōtencioso, &  
postea in penitēciali  
foro iudicabitur ipse

men, but by the oathes of  
good, of worshipfull, and  
of credible men, neigh-  
bours to the parties, in  
whome the same parties  
haue no cause of chal-  
lenge or mistrust, tou-  
ching their verdict. O  
how horrible and detesta-  
ble daungers happen ma-  
nye times thorough the  
fourme of proceeding by  
witnesses! If a man make  
a priuie contracte of ma-  
trimonye, and afterward  
befoze witnesses, doe be-  
troth or assure him selfe  
to another woman, shall  
hee not in the contentious  
Courte bee compelled to  
marrye her, and also af-  
ter that in the penitenci-  
all Courte bee iudged to  
lye with the first, if hee  
bee duely required, and to  
do penauce, as oft as by  
his

his owne mocion and  
procurement hee lyeth  
with the seconde, though  
in bothe Courtes the  
Judge be one and the self  
same man. In this ease,  
as it is witten in Job,  
are not the sinewes of  
Leuiathan perplered and  
intricat: If ye for shame,  
they are intricat in deed:  
For, this man can car-  
nally companie with  
neither of these two wo-  
men, nor with any other,  
without punysshment ey-  
ther by the contentious  
courte, or by the pe-  
nitenciall courte, Such  
a myschiese, inconueni-  
ence, or daunger, can ne-  
uer happen in anye case  
by the way of proceeding  
by the Law of England,  
no nor though Leuiathan  
himselfe would labour to

cōcumbere cū pri-  
ma, si debite requi-  
ratur, & penitere  
debet quoties ex a-  
ctione propria con-  
cubuerit cū secūda,  
licet in vtroq; foro  
iudex fuerit homo  
vn<sup>9</sup> & idem. Nōne  
in hoc casu, vt in Iob  
scribitur, perplexi  
sunt testiculi Leuia-  
thā? Proh pudor, ve-  
re perplexi sunt, nā,  
cum neutra mulierū  
harum, neq; cū alia,  
contrahens iste, ex-  
tunc concumbet, si-  
ne animaduersione  
in foro contenden-  
tium aut penitenti-  
um: quale malum,  
inconueniens, aut  
discrimen, per mo-  
dum & formā pro-  
cessus legis Angliæ  
im-



*Fortescue, in commendation*

impossibile est in  
casu aliquo euenire,  
etiā si Leuitiā ipse  
ea generare nitatur.  
Nōne vides iā, prin-  
ceps clarissime, le-  
ges Anglię tātō ma-  
gis clarescere, quā-  
to eisdem tu am-  
plius reluctaris?

procure the same. Doo  
yee not nowe see, moſte  
noble Prince, that the  
more you object against  
the Lawes of Englande,  
the more worthe they  
appeare:

*¶ Wherfore, certaine Kings of England, haue  
had no delite in their owne Lawes.*

*Cap. 33.*

**P**Rinceps. Video,  
inquit, & eas in-  
ter totius orbis iu-  
ra (in casu, quo  
tu iam sudasti) præ-  
fulgere considero,  
tamen progenito-  
rum meorum An-  
glię regum quos-  
dam audiuius,  
in legibus suis mi-  
nime delectatos,

**I** See plainly, quod the  
Prince, that in the case,  
wherein you haue nowe  
trauayled, they haue the  
preeminence aboue all o-  
ther lawes of the worlde,  
yet wee haue hearde, that  
some of my progenitors,  
kings of Englande, haue  
not bin pleased with their  
owne Lawes, and haue  
therefore gone about to  
bring

bring in the ciuile lawes  
to the gouernement of  
England, and to abolishe  
theyr owne Countrey  
Lawes. For what pur-  
pose & intent they so did,  
I much marueile.

fatagentes proinde,  
leges ciuiles ad An-  
glie regimē induce-  
re, & patrias leges  
repudiare fuisse co-  
natos, horum reuera  
cōsiliū vehemen-  
ter admiror.

*¶ Here the Chauncellour openeth the cause,  
which the Prince demaundeth.*

Cap. 34.

**Y**ou woulde nothing  
marueyle hereat,  
quod the Chauncellour,  
if you dyd deeply con-  
sider with your selfe,  
the cause of this intent.  
For you haue hearde a-  
foze, howe that, amonge  
the Ciuile Lawes, that  
maxime or rule is a sen-  
tence most notable, which  
thus singeth: The Prin-  
ces pleasure standeth in  
force of a Lawe: quite

Cancellarius. Non  
admirareis, prin-  
ceps, si causam hu-  
ius conaminis me-  
te sollicita pertra-  
ctares. Audisti nam-  
que superius, quo-  
modo inter leges  
Ciuiles præcipua  
sententia est, maxi-  
ma siue regula, il-  
la quæ sic canit,  
quod Principi placu-  
it, legis habet vigo-  
rem,



*Fortescue, in commendation*

re, qualiter non faciunt leges Angliæ, dum nedum regaliter, sed & politice rex eiusdē dominatur in populum suum, quo ipse, in coronatione sua, ad legis suæ obseruanciam astringitur sacramento, quod reges quidam Angliæ ægre ferentes, putantes proinde se nō libere dominari in subditos, vt faciunt reges regaliter tantum principantes, qui lege Ciuili, & potissime prædicta legis illius maxima, regulant plebem suam, quod ipsi, ad eorum libitum, iura mutant, noua condunt, pænas

contrarie to the decrees of the Lawes of Englande, whereby the king thereof ruleth his people, not onely by regall, but also by politique gouernement, In somuche that at the time of hys Coronation, hee is bounde by an othe to the obseruance and keeping of his owne Lawe, whiche thing some kings of Englande not well brooking, as thinking that thereby they shoulde not freely gouerne their Subiectes as other Kinges doe, whose rule is onely regall, gouernynge their people by the Ciuile Lawe, and chiefly by that foresaide Maxime of the same law, whereby they at theyre pleasure chaunge Lawes  
make

make new Lawes, execute punishments, burden their subiectes w<sup>th</sup> charges: and also, when they list, do determine controuersies of luters, as pleaseth them. Wherefore, these your progenitors went about to cast off the yoke politique, that they also might likewise rule, or rather rage, ouer the people their subiectes in regall wise onely: not considering that the power of both kinges is equall, as in the foresaid treatyse of the law of nature is declared: and that to rule the people by gouernement politique, is no yoke, but libertie, and great securitie, not onely to the subiectes, but also to the king hymselfe: and fur-

infligunt, & onera imponunt subditis suis, proprijs quoque arbitrijs, contendentium, cum velint, dirimunt lites. Quare, moliti sunt ipsi progenitores tui hoc iugum politicū abijcere, vt consimiliter & ipsi in subiectum populum regaliter tantū dominari, sed potius debacchari queant: nō attendentes, quod equalis est vtriusque Regis potentia, vt in predicto tractatu de natura legis naturæ docetur, & quod nō iugū sed libertas est, politicē regere populū, securitas quoque maxima nedum plebi, sed & ipsi regis



*Forrescue, in commendation*

gi, alleuatio etiam  
non minima solici-  
tudinis suæ. Quæ  
ut tibi apertius pa-  
teant, vtriusq; regi-  
minis experientiam  
percunctare, & à  
regimine tantum re-  
gali, qualiter Rex  
Franciæ principatur  
in subditos suos, ex-  
ordium sumito: de-  
inde à regalis & po-  
litici regiminis ef-  
fectu, qualiter Rex  
Angliæ dominatur  
in sibi subditos po-  
pulos, experienti-  
am quære.

ther no small lyghening  
or easement of his charge.  
And that thys may ap-  
peare moze euident vnto  
you, ponder and weygh  
the experience of both re-  
giments, And begin with  
the king of Fraunce,  
perusing after what sorte  
he ruleth hys subiectes  
by regall gouernement  
alone: And then come to  
the effect of the ioynt  
gouernance, regall and  
politique, examining by  
experience, how and after  
what maner, the king of  
England gouerneth hys  
subiectes.

*The inconueniences, that happen in the  
Realme of Fraunce, through regall  
gouernement alone. Cap. 35.*

Call

**C**ALL to remembrance,  
most worthy Prince,  
after what sort you saw  
the welthy villages and  
townes ( as touchyng  
store of corne ) in the  
Realme of Fraunce ,  
whyle you were there a  
sojourner , pestered wyth  
the kinges men at armes  
and their hozses , so that  
skant in any of the great  
townes there you could  
get any lodging: Where,  
of the inhabyters you  
learned , that those men,  
though they contynue in  
one village a moneth or  
two , doe not , nor will  
pay any thinge at all,  
eyther for their owne  
charges , or for the char-  
ges of their hozses, But  
whych is worse , they  
compelled the inhaby-  
tantes of the byllages

**R**eminiscere (prin-  
ceps diuine) qua-  
liter villas & oppida  
regni Franciæ fru-  
gum opulentissima,  
dum ibidē peregri-  
nabaris, conspexisti,  
Registerē illius ho-  
minibus ad arma, &  
eorū equis, ita onu-  
sta, vt vix in eorum  
aliquibus quāmag-  
nis oppidis tu hos-  
pitari valebas : vbi  
ab incolis didicisti,  
homines illos, licet  
in villa vna per mē-  
sem aut duos per-  
hendinauerint, ni-  
hil prorsus, pro suis  
aut equorum suo-  
rum expensis, sol-  
uisse, aut soluere  
velle, sed quod  
peius est, arcta-  
bāt incolas villarum  
&



*Fortescue, in commendation*

& oppidorū, in quē  
descēderant, sibi de  
vinis, carnibus, & a-  
lijs, quibus indige-  
bant, etiā carioribus  
necessarijs, quam ibi  
reperiebantur, à cir-  
cumvicinis villatis,  
suis proprijs sumpti-  
bus providere. Et si-  
qui sic facere renue-  
bāt, concito fustibus  
cēsi, properē hoc a-  
gere compelleban-  
tur: ac demum con-  
sumptis, in villa vna,  
victualibus, focali-  
bus, & equorū prę-  
bēdis, ad villā aliam  
homines illi prope-  
rabāt, eam cōsimili-  
ter deuastando, nec  
denarium vnum pro  
aliquibus necessarijs  
suis, etiam aut con-  
cubinarum suarum,  
quas in magna co-

and towne dwellers, whe-  
ther they came, to pro-  
uide of their owne pro-  
per costes, out of the vil-  
lages adioyning, wyne  
and flesh for them, and  
other thinges that they  
needed, at dearer prices,  
then they myght haue  
bought the same at home.  
And if any refused thus  
to doe, they were anone  
by plaine Stafford law  
forced to do it: And when  
they had spent all the vic-  
tuals, fewell, and horse-  
meat, in one towne, then  
those men went to an o-  
ther towne, wasting the  
same in like maner, not  
paying one penie for any  
necessaries, eyther for  
themselves, or els for  
their concubines and har-  
lots, whereof they euer  
carried about with them  
great

great abundance, nor  
for hosen or shoes, and  
other like, euen to y<sup>e</sup> lest  
point of lace, but they  
compelled y<sup>e</sup> townsmen,  
where they taried, to  
beare all their expenses.  
And thus were all the  
villages and unwallled  
towns of that land v<sup>se</sup>d,  
so that there is not the  
least village there, free  
from this miserable ca-  
mitie, but that it is once  
or twice euer ye peare  
beggered by this kinde  
of pilling. Furthermore  
the Kinge suffereth no  
man to eate salte with-  
in his kingdome, except  
hee buy it of the Kinge  
at such price, as plea-  
seth him to asseste. And  
if any poore mā had ra-  
ther eate his meat fresh  
then to buy salt so ex-  
cessiue deare, hee is im-

piasecū sepe uehebāt,  
vel pro sotularibus, ca-  
ligis, & alijs huiusmo-  
di, vsq; ad minimam e-  
arum ligulā soluerunt,  
sed singulas suas qua-  
lescunq; expensas ha-  
bitatores villarum, vbi  
moras fecerūt, soluere  
coegerunt. Sicq; & fac-  
tum est in omnibus vil-  
lis & oppidis nō mura-  
tis totius regionis illi<sup>9</sup>,  
vt non sit ibi villula v-  
na, expers de calami-  
tate ista, quæ nō semel  
aut bis in anno, hac ne-  
phanda pressura depi-  
letur. Præterea non  
patitur rex quenquam  
regni sui salem edere,  
quem non emat ab ip-  
so Rege, precio, eius  
solum arbitrio, assesto.  
Et si insulsum pauper  
quiuis mauult edere,  
quam salem excessiuo



*Fortescue, in commendation*

præcio comparare, mox compellitur ille, tantum de sale regis ad eius præcium emere, quantum congruet tot personis, quot ipse in domo sua fouet. Insuper omnes regni illius incolæ, dant omni anno, regi suo, quartam partem omnium vinorum, quæ sibi accrescunt, & omnis caupo quartum denarium præcij vinorum, quæ ipse vendit, & ultra hæc omnes villæ & burgi solunt Regi annuatim, ingentes summas super eos assessas, pro stipendijs hominum ad arma, sic quod armata regis, quæ quam magna sæper est, pascatur annuatim de stipendijs suis, per pauperes villarum, burgorum, & ciuitatum regni,

mediatly compelled to buy so much of the kings salt at the kings price, as shall suffice so many persons as he keepeth in his house. Moreover, all y<sup>e</sup> inhabitants of that realme, giue yerely to the king, the fourth part of all y<sup>e</sup> wines that their grounds beareth: and euery vintener the fourth peny of y<sup>e</sup> price of the wine that he selleth. And besides al this, euery village and borough paieth yerely to y<sup>e</sup> king great summes of money assessed vpon them for the wages of men at armes, so that the charges of the kings armie, which is euer very gret, is maintained by the poore people of the villages, boroughes, and townes of the realme.

And

And yet morouer, euerie  
village findeth continu-  
ally two Crossebows at  
the least, and some moe,  
with all furniture & ha-  
biliments, requisite for  
the kings seruice in his  
warres, as oft as it ple-  
seth him to muster them  
which he doth very oft:  
And, these thinges not  
considered, other excee-  
ding great tallages are  
yearely assessed vpon e-  
uery village of the same  
royalme to the kinges  
vse, whereof they are no  
yeare released. The  
people heeing, wth  
these and diuers other  
calamities, plagued and  
oppzessed, doe liue in  
great miserie, drincking  
water dayly, Neither  
doe the inferior sort cast  
any other liour, sauing  
only at solempne feasts.

Et ultra hæc, quælibet  
villa semper sustinet  
sagittarios duos ad mi-  
nus, & aliquæ plures, in  
omni apparatu & abi-  
limentis sufficientibus  
ad seruiendum regi  
in guerris suis, quoties  
sibi libet eos summo-  
nere, quod & crebro  
facit: ac, hijs non pon-  
deratis, maxima tal-  
lagia alia, sunt omni  
anno assessa ad opus  
regis, super quamli-  
bet villam eiusdem re-  
gni, de quibus non v-  
no anno ipsi alleuian-  
tur. Hijs & nonnul-  
lis alijs calamitati-  
bus, plebs illa lacef-  
ta, in miseria non  
minima viuit, aquam  
cotidie bibit, nec a-  
lium, nisi in solem-  
nibus festis, plebeijs  
gustant liquorem.



*Fortescue, in commendation*

Froccis siue collobitis  
de canabo, ad modum  
panni saccorum, re-  
guntur. Panno de lana,  
præterquam de vilissi-  
ma, & hoc solum in tu-  
nicis suis subtus froc-  
cas illas non vtuntur,  
neque caligis nisi ad  
genua, discooperto re-  
siduo tibiæ. Mulie-  
res eorum nudipedes  
sunt, exceptis diebus  
festis, carnes non co-  
medunt, mares aut fæ-  
minæ ibidem præter  
lardum baconis, quo  
impinguant pulmen-  
taria sua in minima  
quantitate. Carnes as-  
satas coctasue, alias,  
ipsi non gustant, præ-  
terquam interdum de  
intestinis & capitibus  
animalium, pro no-  
bilibus & mercato-  
ribus occisorum:

Their shames are  
made of hempe, muche  
like to sackcloth. Wol-  
len cloth they wear non  
except it be very course,  
& y only in their coates  
vnder their saide vpper  
garmentes, neither vse  
they any hosen, but frō  
the kne vppward: the re-  
sidue of their leggs goe  
naked. Their women  
goe barefoote sauing on  
holy daies, neither men  
noꝝ women eate anye  
fleshe there, but onely  
larde of bacon, with a  
smal quantitie whereof  
they fatten their pottag  
and bꝛothes. As for  
rosted oꝝ sodden meate  
of flesh, they taste none,  
excepte it bee of the in-  
wardes sometimes and  
heades of beastes, that  
be killed for gentlemen  
and Marchants.

But

But the men at armes, they deuoure and consume all their pulleine, so, that they haue scant the egges left to eat for speciall dainties. And if they fortune at any time to growe somewhat wealthie in substance, so that anye of them bee counted rich, hee is by and by charged to the Kinges subsidie, more deeply then any of his neighbors, so that within short time hee is made equall in pouerty with the rest of his beggerly neighbours. And this, as I suppose, is the state of the common and rascall people of that nation. But Gentlemen and Nobles are not so oppressed, and ouercharged with exactions. But if anye of them chaunce

L.iii.

sed gentes ad arma comedunt alimentia sua, ita vt vix oua eorum, ipsis relinquuntur, pro summis vescenda delicijs. Et si quid in opibus, eis aliquando accreuerit, quo locuples eorum aliquis reputetur, concito ipse ad regis subsidium, plus vicinis suis ceteris oneratur, quo, ex-tunc conuicinis ceteris ipse æquabitur paupertate. Hæc, ni fallor, forma est status gentis plebanæ regionis illius. Nobiles tamen, non sic exactionibus opprimuntur. Sed si eorum aliquis calumpni-



*Fortescue, in commendation*

lumniatus fuerit de crimine, licet per inimicos suos nō semper coram iudice ordinario ipse conuocari solet : Sed quam sæpe, in regis camera, & alibi in priuato loco, quandoque vero solum per internuntios, ipse inde alloqui visus est : & mox ut criminofum cum principis conscientia, relatione aliorum, iudicauerit, in sacco positus, absque figura iudicij, per præpositi mariscalcorum ministros noctanter in flumine proiectus, submergitur, qualiter & mori audiuiti maiorem multo numerum hominum, to be accused of any crime, though it bee by his enemies, he is not euer wont to be cited or called before an ordinary Judge : But many times it hath beene seene, that hee hath in that behalfe beene talked with in the Kinges Chamber, or elsewhere in some priuate place, and sometimes onely by a Pursuant or Messenger : And immediately as soone as the Princes conscience hath, through the report of others, iudged him guiltie, hee is without anye fashion of iudgement put in a Sacke, and in the night season by the Marshals seruants hurled into a Ryuer, and so drowned, After which sorte you haue hearde of manye moe put to death, then

then that haue beene by  
ordinarie processe of the  
Lawe condemned. How-  
beit the Princes pleasure,  
as saie the Ciuill lawes,  
hath the force of a Lawe.  
Also, while you were  
abyding in Fraunce,  
and nyghe to the same  
Kynngdome, you hearde  
of other greate enormy-  
ties lyke vnto these,  
and some muche worse  
then these detestable and  
damnable, done no o-  
therwyse but vnder the  
colour of that Lawe,  
whiche heere to rehearse  
would contynue our talke  
too long a tyme. Now  
therefore, let vs see,  
what the effecte of the  
Lawe politique and Re-  
gall, which some of your  
progenitours would haue  
chalinged into this Ciuill,

L.iiii.

quam qui legitimo  
processu iuris con-  
uicti extiterunt. Sed  
tamē, quod principi  
placuit (iuxta leges  
ciuiles) legis habet  
vigorem. Etiam &  
alia enormia, hys si-  
milis, ac quædā hys  
deteriora, dum in  
Francia & prope  
regnum illud con-  
uersatus es, audisti,  
non alio, quam legis  
illius, colore, dete-  
stabiliter damnabili-  
terque perpetrata,  
quæ hic inferere,  
nostrum nimium di-  
alogum protelaret:  
Quare, quid effectus  
legis politicæ & re-  
galis, quam, quidā  
progenitorū tuorū,  
pro lege hac Ciuili,  
cōmutare nisi sunt,  
ope-



*Fortescue, in commendation*

operatus est in regno Angliæ, amodo visitem<sup>9</sup>, vt vtraque legum experientia doctus, quæ earum tibi eligibilior sit, ex earum effectibus elicere valeas, cum (vt supra memoratur) dicat philosophus, quod, opposita, iuxta se posita, magis apparent.

hath wroughte in the Realme of Englande, that you beeing instructed with the experience of both Lawes, may the better by their effectes iudge, whether of them ye ought rather to choose, Seeing the Philosopher, as afore is rehearsed, doth say, that contraries laide together do moze perfectly appeare.

*The commodities, that proceede of the ioint gouernement, politique and regall, in the Realme of England. Cap. 36.*

IN regno Angliæ, nullus perhennat in alterius domo, invito domino, si non in hospitij publicis, vbi tunc pro omnibus, quæ ibidem expendit, ipse plena-

W<sup>h</sup>thin the Realme of Englad, no man soiozneth in another mans house, without the loue and the leaue of the good man of the same house: sauing in common Innes, where befoze his departure thence, he shall fully satisfie

satistie and pay for all his charges there : Neither shal he escape unpunished, whosoever hee be, that taketh another mans goods withoute the good will of the owner therof, Neither is it unlawfull for any man in that Royalme, to provide and store himselfe, of salt, and other merchaundises, or wares, at his owne will & pleasure, of any man that selleth the same. Howbeit the King, though the owners would say nay, may by his Officers take necessities for his house, at a reasonable price to bee assessed by the discrecions of the Constables of the towns: Nevertthelesse, he is bound by his Lawes to paye therefoze, either presently in hande, or else

ric soluet ante eius abinde recessum : nec impune quisq; bona alterius capit sine voluntate proprietarij eorundem, neq; in Regno illo, prapeditur aliquis, sibi de sale, aut quibuscunque mercimonijs alijs, ad proprium arbitrium, & de quocunque venditore, providere. Rex tamen, necessaria domus suae, per rationabile precium iuxta costabulariorum villarum discretionem assidendum, inuitis possessoribus, per officarios suos capere potest : sed nihilominus precium illud in manibus, vel ad diem



*Fortescue, in commendation*

diē per maiores of-  
ficiarios domus suæ  
limitandum, soluere  
per leges suas ob-  
noxio est: quia nulli⁹  
subditorum suorum  
bona iuxta leges il-  
las, ipse diripere po-  
test, sine satisfactio-  
ne debita pro eisdē.  
Neq; rex ibidē, per  
se, aut ministros su-  
os, tallagia, subsidia,  
aut quæuis onera a-  
lia, imponit legijs su-  
is, aut leges eorū mu-  
tat, vel novas cōdit,  
sine concessione vel  
assēsu toti⁹ regni sui,  
in parlaiūto suo ex-  
p̄sso. Quare incola  
omnis regni illi⁹, fru-  
ctub⁹, quos sibi pa-  
rit terra sua, & quos  
gignit pecus eius,  
emolumentis quoq;

at a daye to bee lymit-  
ted and set by the high-  
er Officers of his house:  
For by his Lawes hee  
may take awaye none  
of his Subiectes goods,  
without due satisfacton  
for the same. Neyther  
dothe the Kinge there,  
eyther by himselfe, or by  
his Seruants and Offi-  
cers, leuie vppon his sub-  
iectes, Tallages, Sub-  
sidies, or anye other bur-  
dens, or alter their lawes,  
or make newe Lawes,  
without the expresse con-  
sente and agreement of  
his whole royalme in his  
Parliament. Wherefore  
euerie inhabiter of that  
realme, vseth and enioy-  
eth at his pleasure, all the  
fruites that his lande or  
cattell beareth, with al the  
profits and commodities,  
which

which by hys owne tra-  
uayle, or by the labour  
of others, hee gaineth by  
lande or by water: not  
hindered by the iniurie  
or wrong deteinment of  
any man, but that hee  
shall bee allowed a rea-  
sonable recompence: And  
hereby it commeth to  
passe, that the men of  
that lande are riche, ha-  
uyng aboundaunce of  
Golde and Siluer, and  
other thinges necessarie  
for the maintenaunce of  
mans life. They drinke  
no water, vnlesse it be  
so, that some for deuo-  
tion, and vppon a zeale  
of penaunce, doe abstaine  
from ocher drinks, They  
eate plentifully of all  
kindes of fleshe and fishe,  
They weare fine woollen  
cloth in all their apparel,

omnibus, quæ indu-  
stria ppria, vel alie-  
na, ipse terra mariq;  
lucratur, ad libitum  
ppriū vtitur, nulli<sup>o</sup>  
prepedit<sup>o</sup> iniuria vel  
rapina, quin ad min<sup>o</sup>  
inde debitas conse-  
quitur emēdas: vn-  
de, inhabitātes terrā  
illā, locupletes sunt,  
abundantes auro, &  
argēto, & cūctis ne-  
cessarijs vitæ. Aquā  
ipsi non bibunt, nisi  
qui, ob deuotionis  
& penitenciæ zelū,  
aliquando ab alijs  
potibus se abstinēt,  
omni genere carniū  
& pisciū, ipsi in co-  
pia vescuntur, quib<sup>o</sup>  
patria illa nō modi-  
ce est referta, pannis  
de lanis bonis ipsi  
induuntur in omni-  
bus operimētis suis,  
etiam



*Forrescue, in commendation*

etiam abundant in  
lectisternijs, & quo-  
libet suppellectili  
cui lana congruit, in  
omnibus domibus  
suis, necnō opulen-  
ti ipsi sunt in om-  
nibus hustilimentis  
domus, necessarijs  
culture, & omnibus,  
quæ ad quietam, &  
felicem vitam, ex-  
iguntur, secundum  
status suos. Nec in  
placitum ipsi ducū-  
tur, nisi coram iudi-  
cibus ordinarijs, v-  
bi illi per leges ter-  
ræ iuste tractantur.  
Nec allocuti siue  
implacitati sunt de  
mobilibus aut pos-  
sessionibus suis,  
vel arrettati de cri-  
mine aliquo, qua-  
litercūq; magno &

They haue also aboun-  
dauce of bed coueringes  
in their Houses, and of  
all other woollen stufte,  
They haue greate store  
of all hustlementes and  
implementes of house-  
holde, They are plenti-  
fully furnished with al in-  
struments of husbandry,  
and all other things, that  
are requisite to the accō-  
plishment of a quiet and  
wealthy lyfe, according  
to their estates and de-  
grees. Neither are they  
sued in the Law, but one-  
ly befoze ordinarie iud-  
ges, where by the Lawes  
of the lande they are iust-  
ly intreated. Neither are  
they arrested or implea-  
ded for their moueables  
or possessiōs, or arraigned  
of any offence criminall,  
bee it neuer so great and  
outragious,

outragious, but after the Lawes of the land, and before the Judges aforesaid. And these are the fruits, which, gouernment politique and regall conioyned, doth beare and bring forth: Whereof now appeare evidently vnto you the experiences of the effects of the law, which some of your progenitors trauayled to abolish. Before also you saw playnly the effectes of the other law, which they w<sup>th</sup> such earnest endeuour laboured to aduance and place in stead of thys law, so that by the fruites of them both, you may know, what they are: And did not ambition, ryot, and wanton lust, whych your said

enormi, nisi secundum leges terre illius, & coram Iudicibus antedictis. Et hij sunt fructus, quos parit regimen politicum & regale: Ex quibus tibi iam apparent experientie effectus legis, quam quidam progenitorum tuorum abijcere conati sunt. Superius quoque tibi apparent effectus legis alterius, quam tanto zelo, loco legis istius, ipsi nisi sunt inducere, vt ex fructibus earum tu agnoscas eas: Et, nonne ambitio, luxus, & libido, quos predicti proge-



*Fortescue, in commendation*

progenitores tui, regni bono preferebant, eos ad hoc commercium concitabant? Considera igitur, Princeps optime, & iam alia, quæ sequentur.

progenitors esteemed above the wealth of the Realme, moue them to this alteration? Consider therefore, most worthy Prince, and that earnestly, thys that followeth.

*A comparison of the worthynesse of both the regiments. Cap. 37.*

**S**ANCTUS Thomas in libro, quem Regi Cipri de regimine principū scripsit, dicit: *quod Rex datur propter regnum, & non regnum propter Regem*, quod omnis potestas regia referri debet ad bonum regni sui, quod effectiue consistit, in defensione

**S**aint Thomas in hys booke, which he wrote to the king of Cypus, of the regiment of princes, sayeth, that the king is gyuen for the kingdome, and not the kingdome for the king, Whereupon it followeth, that all kingly power must bee applied to the wealth of hys kingdome, Which thing in effect consisteth, in the defence

defence thereof from for-  
reine inuasions, and in  
the maintenance of hys  
subiects, and their goods,  
from the iniuries and ex-  
torcions of the inhaby-  
tants of the same. Where-  
fore, that king, which is  
not able to performe these  
thinges, must of necessi-  
tie be iudged impotent  
and weake. But if he be  
so ouercome of his owne  
affections and lustes, or  
so oppressed wyth po-  
uertie, that hee cannot  
withhold his hands from  
the pilling of hys sub-  
iects, whereby himselve  
impouerisheth them, and  
suffreth them not to lyue  
and to be sustented vpon  
their owne substaunces:  
how much more weake  
or feeble is hee in thys  
respect to be iudged,

ciusdem ab exte-  
riorum incurfibus,  
& in ruitione reg-  
nicolarum, & bo-  
norum suorum ab  
indigenarum iniu-  
rijs & rapinis. Qua-  
re, Rex, qui hæc  
peragere nequit,  
impotens est ne-  
cessario iudicandus.  
Sed si ipse, passi-  
onibus proprijs, aut  
penuria, ita op-  
pressus est, quod  
manus suas cohi-  
bere nequit à de-  
pilatione subdito-  
rum suorum, quo  
ipse eos depau-  
perat, nec viuere  
sinit & sustenta-  
ri proprijs substan-  
tijs suis: quanto  
tunc impotentior  
ille iudicandus est,  
quam



*Fortescue, in commendation*

quam si eos defendere, ipse non sufficeret erga aliorum iniurias? Reuera, Rex talis, nedum impotens, sed & ipsa impotentia, dicendus est, & non liber iudicari potest, tantis impotentie in exubus vincularus. E regione, Rex liber & potens est, qui incolas suos, erga externos, & indigenas, eorum quoque bona & facultates, nedum erga vicinorum & conciuum rapinas defendere sufficit, sed erga propriam oppressionem, & rapinam,

then if he were not able to defende them against the iniuries of others: Truely, such a kyng may well be called, not onely feeble, but euen verie feeblenesse it selfe: nor is not to be iudged free, beeing tyed wpyth so many bandes of feeblenesse. On the other side, that king is free and of might, that is able to defende hys subiectes, as well agaynst straungers, as agaynst hys owne people: and also their goodes and possessions, not onely from the vyolent and vnlawfull inuasions of their owne countrey men and neyghbours, but also from hys owne oppression and extorcion, though

though such wilful lustes  
and necessitie doe mouue  
him to the contrarie. For  
who can bee more might-  
tie or more free, then hee,  
that is hable to conquere  
and subdue, not onely o-  
thers, but also himselfe:  
Which thinge a Kinge,  
whose gouernance is po-  
litike, can doe and euer  
doeth. Thus must wor-  
thie Prince, it appeareth  
vnto you by the effecte of  
experience, that your pro-  
genitours, which were  
thus minded to renounce  
their politike gouerne-  
ment, coulde not thereby  
not onely not obtaine the  
might and power, which  
they wished, that is to  
saue, increase thereof, but  
rather they shoulde haue  
endaungered, and great-  
lye hazarded, the wealth

licer sibi passiones  
necessitatesque hu-  
iusmodi reluctantur.  
Quis enim potenti-  
or liberiorue esse po-  
test, quam qui, non  
solum alios sed &  
seipsum sufficit de-  
bellare? quod po-  
test, & semper facit,  
Rex politice regens  
populum suum.  
Quare experientie  
effectus tibi constat,  
princeps, progeni-  
tores tuos, qui sic  
politikum regimen  
abijcere satagerunt,  
non solum in hoc  
non potuisse nan-  
tisci potentiam, quā  
optabant, videli-  
cet ampliorem,  
sed & sui bonum,  
similiter & bonum  
Regni sui, per  
hoc,

M.j.



*Fortescue, in commendation*

hoc, ipsi discrimini  
exposuissent, & pe-  
riculo grandiori. Ta-  
men hec quæ iam de  
experientia effectu  
practicata, potenti-  
am regis, illegaliter  
tantum præfidentis,  
exprobrare videtur,  
non ex legis sue de-  
fectu processerunt,  
sed ex incuria negli-  
gentiaque taliter prin-  
cipantis. Quare, ip-  
sa, dignitatem illam  
potentia non minu-  
unt, a dignitate re-  
gis, politice regu-  
lantis, quos patris esse  
potentia, in prædic-  
to tractatu de na-  
tura legis naturæ,  
luculenter ostendi.  
Sed potentiam re-  
gis legaliter tantum  
principantis, diffici-

as well of themselves, as  
also of their kingdome.  
Notwithstanding these  
things nowe practised,  
which, as touching the ef-  
fect of experience, doe  
seeme to blemish the po-  
wer of a king ruling al-  
one regally, neuer proce-  
ded of the default of their  
law, but of the careless de-  
meanour and negligenc-  
lousenes of such a ruler.  
¶ Therefore, that dignitie  
is not heereby in power  
imbased, under the digni-  
tie of a politique Gouer-  
nour, which both, in my  
foresaid treatise of the na-  
ture of the law of nature,  
I haue plainly prooued  
to be in power equal. But  
the premises doe moste  
evidently declare it to  
bee a matter of muche  
more difficulty for a king  
whose

whose rule is onely regal,  
to exercise his power, and  
that both he and his peo-  
ple, stand in much lesse se-  
curitie, and therefore it  
were not to be wished of a  
wise king, to change a po-  
litique regiment into that  
gouvernement, which is  
onely regall. And accor-  
ding to this, the foresaide  
Saint Thomas, wisheth  
that all the kingdomes of  
the worlde were ruled by  
politike gouernance.

lioris esse exercitij,  
ac minoris securita-  
tis sibi & populo su-  
o, illa clarissime iam  
demonstrant, quo  
optabile non foret  
regi prudenti, regi-  
men politicum pro  
tantum regali com-  
mutare. Vnde &  
sanctus Thomas su-  
pradictus optare cē-  
setur, vt omnia  
mundi regna poli-  
tice regerentur.

*The Prince breaketh the Chauncel-  
lour of his tale.*

Cap. 38.

**B**Eare with me, I be-  
sech you good Chan-  
cellour, quod the Prince,

**T**Vnc princeps,  
parce, obse-  
cro, Cancellarie,  
Maj. quod



*Fortescue, in commendation*

quod te ad tantam  
a proposito tuo di-  
gressiōem com-  
puli quæstionibus  
meis, mihi namque  
perutilia sunt, quæ  
hac occasione ex-  
raſti, licet te parum-  
per retardauerint a  
meta intentionis tuę  
ad quam, vt tu iam  
celerius properes,  
flagito, & primo, vt  
aliquos alios casus,  
in quibus, legū An-  
glię & Ciuiliū diſ-  
crepant ſententię, vt  
promiſiſti & cœpiſ-  
ti, mihi enarres,

in that with my questions  
I haue drawne you so far  
from your purpose: For,  
the thinges, which by  
this occasion you haue  
discussed, are to me right  
profitable, though they  
haue somewhat ſtaied you,  
and pulled you backe  
from the ende of your in-  
tent, Whereunto I pray  
you now make haſte: and  
firſt as you promiſed, and  
as you haue begunne, o-  
pen vnto mee ſome other  
caſes, wherein the ſenten-  
ces of the lawes of Eng-  
lande, and of the Ciuile  
lawes, doe diſagree.

*¶ The ſecond caſe, wherein the Ciuile Lawes,  
and the Lawes of England, diſagree  
in their iudgements.*

*Chap. 39.*

*Accor<sup>s</sup>*

**A**CCORDING to your re-  
queste, most Noble  
Prince (quoth the Chan-  
cellour) I will open vnto  
you certaine other cases,  
wherein the saide Lawes  
disagree. Howbeit,  
whether of the same  
Lawes in their iudge-  
ments excelleth the other,  
that will I leaue to your  
owne determination.  
The Ciuill Law doth le-  
gitimate the child bozne  
befoze matrimony, as well  
as that which is bozne af-  
ter: and giueth vnto it  
succession in the Parents  
inheritance: But to the  
childe bozne out of matri-  
mony, the Lawe of Eng-  
land alloweth no successi-  
on, affirming it to bee na-  
turall onely, and not law-  
ful. The Ciuilians in this  
case, aduance their Lawe,

M.iii.

**C**ancellarius.  
Quosdam casus  
alios, in quibus dis-  
sentiant Leges præ-  
dictæ, vt petis prin-  
ceps, detegere co-  
nabor. Sed tamen  
quæ legū earū præ-  
stantior sit in iuditijs  
suis, non meo sed ar-  
bitratui tuo relin-  
quam. Prolem ante  
matrimonium natā,  
ita vt post, legitimā,  
lex ciuilis, & succe-  
dere facit in hæredi-  
tate parentum: sed  
prolem, quam ma-  
trimonium nō parit,  
succedere non sinit  
lex Anglorum, natu-  
ralē tantū eam esse,  
& non legitimam  
proclamans. Ciuili-  
stæ in casu hoc, legē  
eorum extollunt,  
quia



*Fortescue, in commendation*

quia incitamentū eā  
esse dicunt, quo ma-  
trimonij sacramento  
cesset peccatum, per  
quod alias duorum  
animæ interirēt: pre-  
sumendum quoque  
esse dicunt, tales fu-  
isse contrahentium  
animos in primo e-  
orum concubitu,  
quales esse demon-  
strat subsequens sa-  
cramentum. Eccle-  
sia etiā, foetus hūdi  
habet pro legitimis,  
hæc, ni fallor, tria ful-  
cimēta sunt maiora,  
quibus ipsi appro-  
bant, defenduntque  
legē suam. Ad quæ,  
sic respondent legis  
Anglię periti: primo  
dicunt, quod pecca-  
tū primi cōcubitus,  
in casu proposito,

alleaging that by meane  
thereof, the sacrament or  
state of matrimonye com-  
ming in place, extingui-  
sheth the former sinne,  
whereby else the soules  
of two persons shoulde  
haue perished: And it is  
to bee presumed, say they,  
that they were at theyr  
firste copulation both so  
minded, as the sacrament  
ensuyng afterward decla-  
reth. The Church also  
accepteth suche children  
for legitimate. These, I  
trowe, are the thre stron-  
gest reasons, whereby  
they maintaine and de-  
fend their Lawe. Which  
are thus answered by  
the Lawiers of England:  
First they say, that the  
sinne of the firste carnall  
action, in the case proposi-  
ded, is not purged by the  
ma-

matrimonye enluryge, though by the worthynes therof, the sinners punishment is somewhat abated. They say also, that they, which thus do sinne, are so much the lesse repentant therefore, in as much as they perceiue the Lawes to fauour and beare with such transgressors: And vpon this consideration, they are made the redier to comit sinne: thereby breaking the commandement both of God and of the Church. Wherefore this Lawe doth not onely participate with the offence of sinners, but also swarueeth from the nature of a good Lawe. Forasmuch as a Lawe is a holy establishment, commaunding thinges honest, and forbidding the contrarie:

D.iiii.

non purgatur per subsequens matrimonium, licet eius merito delinquentium quodam modo minuat<sup>r</sup> poena. Dicunt etiam quod peccati illius conscij, tanto minus inde poenitent, quo leges transgressoribus illis fauere considerant. Quali etiam consideratione, procliuiores ipsi redduntur ad committendum peccatum, per quod, nedum Dei, sed & ecclesiae praecepta negligunt. Vnde lex illa, nedum delinquentium participat culpam, sed & legis bonae naturam ipsa declinat: cum lex sit sanctio sancta, iubens honesta, & prohibens contraria:

qua-



*Forresene, in commendation*

qualia ipsa non prohibet, sed potius ad inhonesta animos labētū inuitat. Nec vallari potest lex ista per hoc, quod ecclesia foetus hūdi pro legitimis habet. Pia namque mater illa, in quā plurimis dispensat, quæ fieri ipsa non concedit, dispensatiua enim laxauit Apostol⁹ virginis fræna qd' cōsulere noluit, cū oēs ipse voluerit, vt se, virgines; ermansifse. Et absit, vt mater tanta, a filiis suis in casu isto pietatem suā cohiberet, dum sæpe ipsi, etiam legis huius ciuilis fomento concitati, incidūt in peccatum.

Which this Lawe doeth not, but rather allureth the mindes of sinners to dishonestye. Neither can it bee anye defence to this Lawe, that the Churche accepteth suche Childzen for legitimate. For that louing mother dispenseth in manye thinges, which shee lycenceth to bee done, And it was by waye of dispensation, that the Apostle sette Virgins at liberty, whereunto hee would not counsell them, rather wyshinge all to continue Virgines lyke himselfe. And God forbidde, that so great a mother, shoulde in this case withdraw her tender loue from her childzen, which by the intyement of this Lawe do many times fall into sinne.

And

And by the matrimonie ensuing, the Church is informed, that the parties so marrying are penitent and sorry for the offence passed, and are willing in time to come, through matrimonie, to live continent. But the Lawe of England in this case worketh a much contrary effect, for it prouoketh not to sinne, nor cherisheth or maintaineth sinners, but putteth them in feare, and to keepe them from sinne threateneth punishment: for the wantonnesse of the flesh hath no neede of allurements, but rather of discouragement: because the lustes of the flesh are wanton, and almost untameable. And forasmuch as it is impossible for man to lyue euer in himselfe,

Et per matrimonium subsequens docetur ecclesia, contrahentes poenitere de praterito, & de futuro per matrimonium se velle cohibere. Sed longe alium, in hoc casu, lex Angliae effectum operatur, dum ipsa non concitat ad peccatum, neque peccantes fouet, sed terret eos, & ne peccent, minatur poenas: carnis etenim illecebre fomento non egent, egent vero frenis, quia irritamenta carnis lasciuia & quasi infatigabilia sunt. Et homo, quum indiuiduo perpetuari nequit, perpetuari natu-



*Forrescue, in commendation*

naturaliter appetit  
in specie sua, quia  
omne, quod viuit,  
assimilari cupit cau-  
sa primæ, quæ per-  
petua est & æterna.  
Vnde fit, quod plus  
delectatur homo in  
sensu tactus, quo  
seruatur species ei⁹,  
quàm in sensu gu-  
stus, quo conserua-  
tur individuum.  
Quare Noe, vlcis-  
cens in filium qui e-  
ius pudenda reuela-  
uit, nepoti suo, fi-  
lio delinquentis, ma-  
ledixit, vt inde plus  
crucietur reus,  
quam proprio pos-  
sit incômodo: quare  
lex, quæ vindicat in  
progeniem delin-  
quentis, penalius  
prohibet peccatū,

he naturally coueteth to  
liue euer in his like, be-  
cause euery liuing thing  
desireth to be like the first  
and chiefe cause, which is  
perpetuall & euerlasting.  
And hereof it cometh,  
that man hath more delite  
and pleasure in the sense  
of feeling, whereby his  
kind is preserued, then in  
the sense of taste, which  
preserueth onely the par-  
ticuler man. Wherefore  
Noe, executing venge-  
ance vpon his sonne which  
vncouered his priuities,  
vpon curse his Nephewe  
the offenders childe, that  
thereby the offendour  
might bee more griened  
then with his owne mis-  
hap: Wherefore, the law,  
that punisheth the offen-  
dours issue, doth more pe-  
nallye prohibite sinne,  
then

then that, which plageth  
but the offendour alone.  
Whereby it maye easily  
bee considered, with what  
zeale the law of England  
abhorreth unlawfull con-  
iunctions, which doth not  
onelye iudge the childe so  
gottē to be illegitimate,  
but also prohibiteth it to  
succeed in the parents in-  
heritāce. Is not this law  
then chaste and pure? And  
dothe it not more forcea-  
bly and more earnestly  
suppresse sinne, then the  
foresayde Ciuile Lawe,  
whiche winketh at the  
sinne of lecherie, and lea-  
ueth it unpunished?

quam quæ solū de-  
linquentē flagellat.  
Ex quibus confide-  
rare licet, quāto zelo  
Lex Angliæ illicitos  
prosequitur concu-  
bitus, dū ex eis edi-  
tā prolem, ipsa, ne-  
dum iudicat nō esse  
legitimā, sed & suc-  
cedere prohibet in  
patrimonio parētū.  
Nunquid tunc, lex  
ista casta non est? &  
non fortius firmitus-  
q; repellit peccatū,  
quā facit lex prædi-  
cta ciuilis, quæ cito,  
& quasi inultū luxu-  
riæ crimē remittit?

*Speciall causes, why base borne children, are not  
legitimate in England by matrimony  
ensuing. Cap. 40.*

**M**oreouer, the ciuill  
laws say, that your

**P**reterea leges ci-  
uiles dicunt, filiū  
natura-



*Fortescue, in commendation*

naturalē tuum esse  
filiū populi, de quo  
metric<sup>9</sup> quidā sic ait  
Cui pater est popu-  
l<sup>9</sup>, pater est sibi, nul-  
l<sup>9</sup>, & omnis. Cui pa-  
ter est populus, non  
habet ipse patrem.

Et dum proles talis  
patrem non habuit  
tempore natiuitatis  
sue, quomodo ex  
postfacto ipse pa-  
trem nancisci pote-  
rit, natura non no-  
uit: quò, si ex for-  
nicatorib<sup>9</sup> duobus,  
mulier vna filios pe-  
perit duos, quā po-  
stea vnus ex concu-  
binarijs illis ducat in  
vxorē, quis ex filijs  
hijs duob<sup>9</sup>, per ma-  
trimonium illud le-  
gittimatur? Opi-  
nio suadere potest,

naturalloz bastard sonne  
is the sonne of the peo-  
ple. ¶ Thereof a certaine  
Detritian writeth in  
this wise.

*To whō the people father is,  
to him is father none and  
all:*

*To whō the people father is,  
we fatherles we may him  
call.*

And while suche a childe  
had no Father at the time  
of his byrthe, surely na-  
ture knoweth not howe  
he could afterward come  
by a Father: For, if one  
womanne should beare  
two children of two for-  
nicatours, and the one of  
them shoulde afterwarde  
marrye her: ¶ Whether  
of these twoo chyldren  
should by this marriage  
be legittimate? Opinion  
may somewhat perswade,  
but

but reason cannot find: sed ratio reperire  
seeing the time was once, nequit; dum ambo  
when both those children, filij illi populi foetus  
beeing iudged the chil- iudicati, semel pa-  
dren of the people, did not rentes ignorabant.  
know their fathers. It Inconsonū propte-  
were therefore unreason- rea videretur, quod  
able, that a child after in matrimonio illo  
ward borne in the same extunc ab eadē mu-  
wedlocke, whose genera- liere natus, cuius ge-  
tion cannot be unknown, neratio ignorari non  
should be disinherited, poterit; expers esset  
and that a child which know- hereditatis, & filius  
eth no father, should be nescius genitoris sui,  
heire to the father & mo- succederet patri &  
ther of the other, speci- matricius, maximē  
ally in the realme of Eng- infra regnū Anglię,  
land, where the eldest vbi filius senior so-  
sonne onely inioyeth the lus succedit in here-  
fathers inheritance, And ditate paterna, & nō  
an indifferent Judge minus incongruum  
would thinke it no lesse esse sentiret arbiter  
unreasonable, that a base equus, si fili⁹ ex stu-  
borne child, should bee pro, equaliter per-  
equally matched with a ticiparet cum filio  
lawfull begotten child in ex legitimo thoro,  
here-



*Fortescue, in commendation*

hereditatem, quæ  
iure Ciuili inter  
masculos diuidenda  
est. Nam Sanctus  
Augustinus xvj. lib.  
*de Ciuitate Dei* sic  
scribit: Abraham  
omnem censum su-  
um dedit Isaac filio  
suo, filijs autem  
concubinarum de-  
dit dationes; Ex quo  
videtur innui, quod  
spurijs non debetur  
hereditas, sed victus  
necessitas. Hæc ille.  
Sub nomine vero  
spurijs, denotat Au-  
gustinus, omnem  
foetum illegittimū,  
qualiter & sepius fa-  
cit scriptura sacra,  
quæ neminem vocat  
bastardum. Ecce,  
differētiam non mi-  
nimam sentit Augu-

the inheritance, which by  
the Ciuill lawes can be  
deuided but onely among  
male childezen. For Saint  
Augustine in the xvi. book  
*de Ciuitate Dei* writeth  
thus: Abraham gaue all  
his substance to his sonne  
Isaac: and to the sonnes  
of his concubines he gaue  
gyftes: Whereupon see-  
meth to be meant, that to  
bastarde chyldzen there  
is no inheritaunce due,  
but onely a necessarie ly-  
uing. Thus sayeth hee.  
And vnder the name of  
a bastard childe, S. Au-  
gustine vnderstandeth all  
vnlawfull issues, and so  
doth holy Scripture also  
in dyuers places, cal-  
ling none by the name  
of a bastard. Loe, Saint  
Augustine thynketh no  
small difference to be,  
and

and so thinketh Abraham too, betweene the succession of a bastard, and of a sonne lawfully begotten. Yea, holy Scripture reprehendeth all unlawfull chyldren under this Metaphor, saying, bastarde slippes shall take no deepe roote, nor lay any fast foundation, in the iiii. chapiter of the booke of Wisdome. The Church also reprooueth the same, in that it admitteth them not to holy orders. And if it so be, that the Church do dispense with such a one, yet it permitteth not hym to haue any dignitie or preeminence in the Church. Wherefore it is conuenient, that mans law in the benefite of succession, should cutt them short,

stinus, sentit et Abraham, inter successionem spurij, & filij ex legitimo concubitu. Ceterum omnes filios illegittimos reprehendit Scriptura sacra, sub Metaphora hac, dicens: spuria vitelamina non dabunt radices altas, nec stabile fundamentum collocabunt, Sapientie iiii. Reprehendit & Ecclesia, quæ eos à sacris repellit ordinibus, & si cum tali dispensauerit, non eum tamē permittit dignitate præesse in ecclesia dei, cōgruit idcirco legi hominum in successionis beneficio, minuire, quos



*Fortescue, in commendation*

quos Ecclesia indig-  
nos iudicat sacro  
ordine, & quos ip-  
sa repellit ab omni  
prelacia: ipso etiam,  
quos Scriptura sa-  
cra, in natalibus, mi-  
noratos iudicat à le-  
gitime procreatis.  
Gedeon autem vi-  
rorū fortissimus, lxx.  
filios in matrimonio  
legitur procreasse,  
& non nisi vnum so-  
lū habuisse ex con-  
cubina, filius tamen  
ipse concubine, om-  
nes filios illos legit-  
imos, nequiter per-  
emit, excepto vno  
solo, Iudicū ix. Quo,  
in notho vno, plus  
malitiæ fuisse depre-  
hēditur, quā in filiis  
legitimis lxix. Tritū  
etenim puerbiū est:

whom the Church iudg-  
eth unworthy to bee re-  
ceyued in holie orders,  
and reiecteth from all  
prelacie: yea whom holy  
Scripture iudgeth, as  
touchyng theyr birth,  
much inferiour to them  
that be lawfully begot-  
ten. We reade, that  
Gedeon the puissaunt be-  
gat threescore and ten  
sonnes in wedlocke, and  
but one onely out of wed-  
locke, yet thys misbe-  
gotten chyld wickedly  
slew all those lawfully be-  
gotten chyldren, one on-  
ly excepted, Judges the  
nyenth chapter: Where-  
by it is perceyued, that  
there was moze wicked-  
nesse in one bastarde  
chyld, then in lxix. law-  
full sonnes. For it  
is a common saying:

If a

If a bastard be good, that cometh to him by chance, that is to witte, by special grace, but if he bee euill, that cometh to him by nature. For it is thought, that the base childe draweth a certaine corruption and staine from the sinne of his parentes, without his owne fault, as all wee haue receiued, of the sinne of our first parents, much infection, though not so much, How be it the blemish, which bastards by their generation doe receiue, much differeth from that, wherein lawfull children are bozne, For their conception is wrought by the mutuall sinnefull lust of both parents, which in the lawfull and chaste copulation of married couples taketh no place, The

*si bonus est bastardus hoc ei venit a casu, videlicet gratia speciali, si autem malus ipse fuerit, hoc sibi accidit a natura. Corruptionem namq; & maculam quandam censetur illegitimus partus contrahere a peccato genitorum suorum sine culpa eius, vt maxima nos contraximus omnes a crimine primorum parentum, licet non tantam: aliam tamen nothi, quam legitimi, contrahunt maculam ex genitura sua, eorum namq; generatione mutua vtriusq; parentis libido culpabilis operatur, qualiter in legitimis castisq; amplexibus*



*Fortescue, in commendation*

ibus coniugatorum ipsa nō solet debacchari, mutuum sane & cōmune est peccatū taliter fornicatū, quo primo similitū peccato magis seuit in fetum, quam peccatum aliter solitarieq; peccantium vt ex inde natus, potius peccati filius dici mereatur, quā fili<sup>9</sup> peccatorum. Quare sapientiæ liber, generationes has duas distinguens, de generatione legitima sic affatur: O quam pulchra est casta generatio cum claritatei! immortalis est enim memoria illius, quoniā apud deum nota est & apud homines. Altera vero

sinne of suchē fornicatours is committed by the mutuall consent of them both, Wherefore it is likned to the first sinne, and cleaueth more cruellye to the chylde, then the sinne of such as doe otherwise offende alone: so that the Childe so begotten deserueth to be called the childe of sinne, rather then the childe of sinners, wherefore the Booke of wisdomē makinge a difference betweene these two generations, of the lawful generation it saith thus: O how faire is a chaste generation with vertue! The memorizall thereof is immortal: For it is known with God and wpyth men. But the other is not knowne wpyth men,  
fo

so that the children there-  
of borne, are called the  
children of the people.  
Of which base genera-  
tion, the same booke thus  
speaketh: All the chil-  
dren, that are borne of  
wicked parents, are wit-  
nesses of wickednesse a-  
gainst their parentes,  
when they bee asked,  
For beeing demaunded  
of their parentes, they  
open their sinne, euen as  
the wicked sonne of Noe  
vncouered his fathers pri-  
uities. It is therefore  
beleueed touchinge the  
blind borne, of whom the  
Pharisees in the ninth  
Chapter of Saint Iohns  
Gospell saide: thou art al-  
together borne in sinne:  
that hee was a bastarde,  
who whollye is borne of  
sinne: & wher it followeth

nō est nota apud ho-  
mines, quo filij ex ea  
nati, filij populi no-  
minātur. De genera-  
tione utiq; illa altera  
liber ille sic dicit: ex  
iniquis omnes filij  
qui nascuntur, testes  
sunt nequitie aduer-  
sus parentes suos in  
interrogatione sua.  
(Sapientia eodē iij  
cap.) interrogati ete-  
nim de parētib<sup>9</sup> suis,  
eorum ipsi reuelant  
peccatū, vt fili<sup>9</sup> Noē  
nequā reuelauit pu-  
dēda patris sui. Cre-  
ditur idcirco, cecum  
illum natū, de quo  
Pharisei, lo. ix. dixe-  
runt, tu in peccatis  
natus es totus, fuisse  
bastardū, qui nasci-  
tur totaliter ex pec-  
cato, & dum sub-  
N.ij. ditur



*Fortescue, in commendation*

ditur, & tu doces nos, videtur eos intellexisse, bastardum non, vt legitimum, in naturalibus esse dispositum ad scientiam & doctrinam. Non igitur bene diuidit lex illa, quę bastardos à natiuitate, & legitimos, parificat in hereditate paterna, cum eos dispares iudicet ecclesia in hereditate dei, similiter & distinguat sacra scriptura in forma p̄notata, diuidatq; natura in donis suis, signans naturales, tantū, n̄uo quasi naturali quodam, licet latente, in animis suis. Quam igitur legū istarū, Anglicarum, viz. & Ci-

doest thou teach vs, It seemeth that thereby may bee vnderstanded, that a bastard hath no like naturall disposition to knowledge and learning, as a lawfull child hath. Wherefore, that law maketh no good diuision, which in the fathers inheritaunce maketh equall bastarde children and lawfull children, whome the Church in Gods inheritance maketh vnequall, Betweene whome also scripture putteth a difference in forme aboue mencioned: & whōe nature in her giftes seuereth, marking the natural or bastarde children, as it were, with a certeine priuie marke in their soules. Whether therefore of the two lawes, English or ciuile, do you now embrace, most

most Noble Prince, uiliū, in casu hoc, tu  
and iudge to haue the princeps illustrissi-  
preheminence in thys me, amplecteris &  
case. iudicas præferendā.

*The Prince alloweth the Lawe, which doth not le-  
gitimate children borne before matrimo-  
nie. Cap. 41.*

SURELY, euen to that law  
do I giue the prefer-  
ment, quoth the Prince,  
which is of more force to  
abandon sinne out of the  
Realm, & to aduance ver-  
tue. Those also in the be-  
nefitcs of mans lawe do I  
suppose abiect & base, whō  
the Lawe of God confide-  
reth vnworthy, and whom  
the Church in her benefits  
reiecteth, and nature also  
iudgeth more prone vnto  
sinne. I thinke you do not  
iudge amis, quoth y<sup>e</sup> Chā-  
cellour. Wherefore I will  
rehearse yet other cases,  
R. iiii.

PRinceps, Reuera-  
eam, quæ fortius a  
regno peccatū eli-  
minat, & firmitus in  
eo virtutē cōseruat.  
Arbitror etiā illos in  
legis humanæ bene-  
ficijs minorandos,  
quos lex diuina in-  
digniores cōsiderat,  
& quos postponit  
ecclesia in beneficijs  
suis, natura quoque  
procliuiiores iudicat  
ad peccandum.  
Cancellarius. Recte  
estimo te sentire,  
quare & casus alios  
me-



*Fortescue, in commendation*

memorabor, in quibus discrepant hæ leges duæ,

wherein the sayde Lawes disagree.

*The third case wherein the Lawes aforesaid disagree. Cap 42.*

**L**Eges ciuiles sanc-  
ciunt, quod par-  
tus semper sequitur  
ventrem, vt si mulier  
seruilis conditionis  
nubat viro condici-  
onis liberæ, Proles  
eorum seruus erit; &  
econuerso, seruus  
maritatus liberæ, nō  
nisi liberos gignit.  
Sed lex Angliæ nū-  
quā matris, sed sem-  
per patris conditio-  
nem imitari partum  
iudicat. Vt ex libera,  
etiā ex natua, nō nisi  
liberū liber generet,  
& non nisi seruū in  
matrimonio procre-  
are potest seruus.

**T**He Ciuill Lawes de-  
cree, that the issue euer  
foloweth the wombe, that  
is to say, the mother. As  
for example, if a bond wo-  
man bee married to a free  
man, their issue shall bee  
bond: And contrarywise if  
a bond man marieth a free  
woman, he begetteth none  
but free childzen. But the  
Lawe of Englande neuer  
iudgeth that issue to fol-  
low the mothers condici-  
on, but alway the fathers.  
So that a free mā beget-  
teth free childzē as well of  
a bond woman, as of a free  
woman, & a bondman in  
wedlocke can beget none  
other but bonde childzen.

Whether of these lawes is better thinke you in their sentences: It is a cruell law, which without offence subdueth the free mans childe to bondage. And no lesse crueltye is to bee thought in the law, which without any desert oppresseth the free womans childe with bondage. Yet the Ciuilians say, that the Ciuill Lawes in these their iudgements do excell. For an euill tree, say they, can not bringe forth good fruites, nor a good tree beare euill fruites. And by the consent of all lawes it is agreed, that euerye plant yeeldeth to the nature of the ground wherein it is planted, the childe also hath muche more certaine and sure knowledge of the mother, then of the

*M.iiii.*

*Quæ, putas, legum harum, melior est in sentencijs suis? crudelis est lex, quæ liberi prolem sine culpa subdit seruituti. Nec minus crudelis censetur, quæ liberæ sobolē sine merito redigit in seruitutem. Legistæ vero dicunt, leges Ciuiles præuallere in his iudicijs suis. Nā dicunt, quod nō potest arbor mala fruct⁹ bonos facere, Neque arbor bona fruct⁹ malos facere. Ac omnis legis sententia est, qd' plātatio quælibet cedit solo quo inseritur, Certior quoque multo est partus, quæ cū fuderūt viscera, quā quis cū pater procreauit,*

*Ad*



*Fortescue, in commendation*

Ad hæc, legis Anglię  
consulti dicūt: quod  
partus ex legitimo  
thoro, non certius  
noscit matrem, quā  
genitorē suū. Nam  
ambæ leges, quæ iā  
contendunt, vnifor-  
miter dicunt, quod  
ipse est pater, quem  
nuptiæ demonstrāt.  
Nunquid tūc magis  
est cōueniens, vt filij  
conditio ad patris  
potius, quam ad ma-  
tris conditionem re-  
feratur, cum de con-  
iugatis dixerat A-  
dam? erunt ipsi duo  
in carne vna, quod  
dominus exponens  
in Euangelio ait:  
Iam non sunt duo,  
sed vna caro, &  
cum masculinum  
concipiat femini-

father. Whereunto the  
Lawiers of England an-  
swere on this wise: That  
a childe lawfully begot-  
ten hath no more certaine  
and sure knowledge of the  
mother then of the father.  
For both these laws thus  
disagreeing, agree yet in  
this point, that he is the  
father, whome wedlocke  
declareth. And is it not  
then more conueniēt, that  
the condicion of the child  
shoulde haue relation ra-  
ther to the fathers condi-  
cion, then to the mothers,  
Seeing that Adam spea-  
king of married couples,  
said: They shall be two in  
one flesh, which our Lord  
expounding in the Gospel  
sayth: Now are they not  
two but one flesh. And for-  
somuch as the male, as  
more worthye, containeth  
the

the female, the whole  
fleshe so vnited must haue  
relation to the male as to  
the worther, wherefore  
the Lord called Adam &  
Eue not by the name of  
Eue, but because they  
were bothe one fleshe, hee  
called them bothe in the  
name of Adam, the man,  
as it appeareth in the fifth  
chapter of Genesis. The  
Ciuite Lawes also holde  
that women do euer glis-  
ter wyth the shynynge  
beames of their husbands.  
Wherefore in the cytle  
begynninge wyth these  
wordes: *Qui se professione*  
*excusant*, in the 9. Booke  
L.ii. the text sayth thus,  
we auance women with  
the honour of their hus-  
bands, and with the kin-  
red of their husbands wee  
worship the, in the court

num, ad masculinum,  
quod dignius est, referri debet to-  
ta caro sic facia v-  
na, Quare Adam &  
Euam vocauit do-  
minus, non Euam,  
sed quia caro vna  
ipsi erat, ambos eos  
vocauit ipse nomi-  
ne viri, videlicet, A-  
dam; vt patet Ge-  
nesis quinto capi-  
tulo. Ipsæ quoq; ci-  
uiles leges dicunt:  
quod mulieres se-  
per coruscant, radijs  
maritorum suorum.  
Vnde C. qui pro-  
fessione se excusant,  
libro nono. l.ii. tex-  
t<sup>o</sup> sic loquitur: Mu-  
lieres honore mari-  
torum erigimus, &  
genere nobilita-  
mus, et forum ex eo-  
rum



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rum persona statui-  
mus, & domicilium  
mutam<sup>9</sup>. Sin autem  
minoris ordinis vi-  
rum postea sortita,  
prioris dignitate pri-  
uate, posterioris ma-  
riti cōsequantur cō-  
ditionem & domi-  
ciliū, & cum nomen  
patris, & nō matris,  
gerat proles omnis,  
& maxime masculi-  
na, Vnde tunc pro-  
uenire poterit, quod  
fili<sup>9</sup>, ratione matris,  
amitteret honorē,  
cōditionemue pa-  
tris sui mutaret, cui<sup>9</sup>  
tamen nomen ipse  
retinebit, præsertim  
dum honore patris  
eiusdē ac conditio-  
ne resplendat ma-  
ter eius, & dum viri  
honor vel conditio

we decree maters to passe  
in the name of their hus-  
bāds, & into the house and  
surname of their husbāds  
do we trāstate thē. But if  
afterward a woman ma-  
rie with a man of baser  
degree, than loseth she her  
former dignitie, & folow-  
eth the condition of her  
latter husbād, And forso-  
muche as all childzen, spe-  
cially male childzē, beare  
the fathers name, and not  
y<sup>e</sup> mothers, whereof then  
shoulde it come, that the  
sonne by reason of the mo-  
ther should lese the hono<sup>r</sup>,  
or change the condition  
of the father, whose name  
neuerthelesse he shall still  
keepe, Specially seeing  
the mother herself recea-  
ueth of the same Father  
hono<sup>r</sup>, worshop & dignitie,  
which hono<sup>r</sup>, worshop and  
dignity

ptignity of the husbān can  
neuer be dissteined or im-  
peached thzough the fault  
of y wife. Truly that law  
may wel be deemed cruel,  
which without any cause,  
cōmitteth to bondage the  
fremās sonne, & which, dis-  
heriting the innocēt sōne  
of the innocēt free father,  
adiudgeth his land to an  
vnwoorthie straunger:  
whiche also with the base  
state of bōdage in the son  
defaceth the name of the  
free father. Cruell also of  
necessitie must that lawe  
be coumpted, which aug-  
menteth thzal dome, & di-  
minisheth libertie or free-  
dome. For libertie is the  
thing that mans nature  
euer coueteth. For, by mā  
and for sinne, did bondage  
firste enter. But free-  
dome is grafted in mans

nūquam per vxoris  
viciū denigratur.  
Crudelis nēpe cen-  
seretur lex, quæ si-  
ne causa, filiū liberi,  
seruituti committit,  
& terrā, pro qua li-  
ber ille innocens &  
crimine, sudauit in-  
nocētis filij sui titu-  
lo, non sudanti tra-  
det extraneo possi-  
dendam, ac patris  
nomen, etiā filij ser-  
uitutis nota cōma-  
culat. Crudelis etiā  
necessariō iudicabi-  
tur lex, quæ seruitu-  
tem augmentat, &  
minuit libertatem.  
Nam pro ea natura  
seper implorat hu-  
mana. Quia, ab ho-  
mine, & pro vicio,  
introducāta est ser-  
uitus. Sed libertas  
a deo



*Fortescue, in commendation*

à deo hominis est  
indita naturæ. Qua-  
re ipsa ab homine  
sublata, sēper redire  
gliscit, vt facit om-  
ne, quod liberta-  
te naturali priuatur.  
Quo ipse & crude-  
lis, iudicand<sup>9</sup> est, qui  
libertati non fauet.  
Hæc, considerantia  
Angliæ iura, in om-  
ni casu libertati dant  
fauorē. Et licet iura  
illa iudicent eū ser-  
uum, quē seruus in  
coniugio ex libera  
procreauit, non per  
hoc, iura illa rigida,  
crudeliaue sentiri  
poterunt. Nam mu-  
lier, quæ coniugio  
seruo se subiecit,  
facta ei caro vna,  
quo ipsa, vt dicunt  
leges suprascriptæ,

nature, of God. Whereof  
if men be depriued, he is  
euer desirous to recouer  
the same again, like as all  
other thinges do, that are  
spoiled of their naturall  
libertie. Wherefore wic-  
ked and cruell is he to bee  
deemed, that fauoreth not  
libertie. Which things  
the Lawes of Englande  
duely considering, doe in  
all respectes shew fauour  
to libertie. And thoughe  
the same lawez iudge him  
thall, whome a bondman  
in wedlocke begetteth of  
a free woman, yet here-  
by cannot these lawes be  
reputed seuerē and cruell.  
For a woman, whiche by  
marriage hath submitted  
herselfe to a bondman, is  
made one flesh with him,  
wherefore, as the fore-  
sayde Lawes determine,  
she

she followeth the state of  
his condition, and of her  
owne free will hath  
made her selfe a bond  
woman, not forced there-  
to by the Law, much  
like to such, as in kinges  
courtes become bond-  
men, or sell them selues  
into bondage, wythout  
any compulsion at all.  
And how then can the  
Lawe determyne the  
chylde to be free, whom  
such a mother hath thus  
borne? For the husband  
can neuer be in so much  
subiection to hys wyfe,  
though shee be a right  
great Ladie, as thys  
woman is subiect to the  
bond man, whom she hath  
made her Lord, insomuch  
as the Lord sayth to all  
wiues: Thou shalt be  
vnder the power of thy

eius consequitur cō-  
ditionem, & proprio  
arbitrio se fecit an-  
cillam, sed potius  
seruam, nullatenus  
à lege coacta, qua-  
liter & faciunt, qui  
se seruos reddunt in  
curijs regum; vel  
in seruitutem se  
vendunt, nullatenus  
ad hoc compulsi.  
Quomodo tunc, li-  
berum sancire pos-  
sunt leges filium il-  
lum, quem mater ta-  
lis, taliter est enixa?  
Nunquam enim sic  
subiectus est vir vxo-  
ri, licet maxima Do-  
mina ipsa fuerit, vt  
subiecta est libera  
hec seruo, quem ipsa  
facit dominum eius,  
dicente domino vx-  
ori omni, Eris sub  
potestate



*Fortescue, in commendation*

201  
potestate viri, & ipse  
dominabitur tibi,  
Et quid est, quod  
dicunt legiste illi, de  
fructu arboris bonę  
vel malę, nonne cõ-  
ditionis libere vel  
seruilis, est vxor om-  
nis, qualis est mari-  
tus eius? Et in cuius  
solo plantauit mari-  
tus, dum vxor ei<sup>9</sup> est  
sibi caro vna? Non-  
ne in proprio? Quid  
si fureculũ dulcis na-  
ture in seuerit ipse sti-  
piti arboris acerbę:  
Dũmodo arbor illa  
eius est, nõne fructus  
(licet ex stipite re-  
dolēt) sēper sint fru-  
ctus eius: Sic ex mu-  
liere genita proles,  
mariti est progeni-  
es, fuerit mater libera  
vel ancilla. Sanciunt

husband, and he shall  
haue dominion ouer thee.  
And what is it that these  
Ciuitians say of the fruit  
of a good or euill tree,  
Is not euery wife of a  
free or thrall condition,  
according to the state of  
her husband? And in  
whose ground hath the  
husband planted, while  
his wife is one flesh with  
him? Not in his owne?  
And what then if he haue  
grafted a slip of a sweete  
nature in a stocke of a  
sower tree: So that the  
tree be his owne, shall not  
the fruites, though they  
euer saue of the stocke, be  
his owne fruites? So  
the child, which the wife  
beareth is the husbandes  
issue, whether the wyfe  
be free or thrall. How-  
beit the Lawes of Eng-  
land

land decree, that if a bond woman, without the consent of her lord, be married to a free man, though they can not be deuorced, because the Gospel saith, whom God hath conioyned, let no man separate, yet shall her lord recover against y<sup>e</sup> same free man, all the damages, that he hath sustained by reason of y<sup>e</sup> losse of his vassal or bond woman. This now, as I suppose, is the summe and forme of the law of England in the case now declared. That therefore is your oppinion, most excellent Prince, in the same case? And whether of these two Lawes do you esteem to be of more worthynesse and excellency?

The Prince approueth the Law, whereby the issue followeth not the wombe. Cap. 43.

tamen leges Anglie quod dominus natiue à libero in matrimonium sumptis ipso incōsulso, cum eam repudiare nequeat, dicente euangelio: quos deus coniunxit homo non separet. recuperabit versus liberū illum, omne damnū, quod ipse sustinuit ratione deperditū ferticij, & amisse ancillæ. Hæc iā, vt testimo, est summa & forma legis Anglie, in casu iam enarrato. Quid igitur iā tibi videtur, Princeps, in casu isto? & quæ legū predictarū præstantior aut eligibilior à te iudicatur?

Princeps



**P**rinceps, Anglorum lege in hoc casu, Romanorum legi prestare, dubitare nos ratio non permittit. Et optior mihi sepe est lex, quae fauore potius quam rigorem, partibus administrat. Recolo namque illius iuris regulam, quae sic dicit: Odia perstringi, & fauores conuenit ampliari. Cancellarius, Et bene quidem. Alium adhuc casum tibi referam, princeps, in quo concertat leges istae, & non multum postea, tunc desistam, ne onerosum tibi sit, tantis sollicitari scismatibus, etiam ne in fastidium tibi veniat disceptatio mea

**R**eason suffereth vs not to doubt (quod the Prince) but that in this case, the law of England surmounteth the Romayne Law. And that Law is to me more allowable, whych vnto children sheweth fauour, rather then rigour. For I remember a rule of the law, that sayeth: It is behoueauble that cruell hate be repressed, and fauour advanced. And good reason (quod the Chauncellour) Yet will I expresse vnto you an other case, wherein these Lawes are repugnant, And shortly after I will make an end, least it be tedious to you, to be troubled wth so many disagreeings, and least you happen to be wried with

with my ouer long talke. diutius protelata.

*¶ The fourth case, wherein the saide  
Lawes varie.*

*Cap. 44.*

**T**He Ciuil lawes com-  
mit the tuition of or-  
phants to the next of their  
bloud, whether the kintred  
grow on the fathers side,  
or on y<sup>e</sup> mothers side, that  
is to say, to euery man ac-  
cording to the degree and  
order, wherein his turne  
is next to succede the pu-  
pil in his inheritance. And  
the reason of this lawe is  
that: that no man will be-  
haue himselfe moze ten-  
derly or moze fauourably,  
in the careful education of  
the Infant, then hee that  
is next of his bloud,

**L**Eges ciuiles, im-  
puerberum tute-  
las, proximis de  
eorum sanguine,  
committunt, agna-  
ti fuerint seu cog-  
nati, vnicuique vi-  
delicet secundum  
gradum & ordi-  
nem, quo in hare-  
ditate pupilli suc-  
cessurus est. Et ra-  
tio legis huius est,  
quia nullus, tenerius  
fauorabilius, in-  
fantem alere sataget  
quam proximis de  
sanguine eius.

Ojs

Tas



*Fortescue, in commendation*

Tamen longe aliter de impuberum custodia statuunt leges Angliæ. Nam ibidem, si hæreditas, quæ tenetur in Socagio, descendat impuberi ab aliquo agnatorum suorum, non erit impubes ille, sub custodia aliquius agnatorum eius, Sed per ipsos cognatos, videlicet, consanguineos ex parte matris, ipse regetur. Et si ex parte cognatorum, hæreditas sibi descendat, pupillus ille cum hæreditate sua, per proximum agnatū, & non cognatū eius custodietur, Quousque ipse fuerit adultus. Nam leges illæ

Neuerthelesse the laws of England, touching the custodie of orphanes, doe determine much otherwise. For there, if an inheritance, being holden in Socage, descend to an Orphane, from anye of the kinred of his Fathers side, the same Orphane shall not be vnder the keeping of any of that kinred but hee shall be gouerned by his cosins or kinsfolke of his mothers side. And if the inheritance come to him from any kinsman of his mothers side, then the pupill with his inheritance shall bee in the custodie, till hee come to lawefull age, of him that is next of his kinne of his fathers side, and not of any kinsman of the mothers side. For our lawes say,

saye, that to commit the tuition of an infant to him, that shall next succeede him, is like as if one should betake a lambe vnto a Wolfe to bee deuoured. But if the inheritance be not holden in socage, but by Knights seruice, then by the Lawes of the same land, the child with his inheritance shall bee in the keeping of none of his kinred of neither side, but in the custodie of the Lorde of the fee, vntill hee come to the age of one and twentie yeares. And thinke you, that anye man can or will better instruct and traine vp the childe in feates of armes, which, by reason of his tenure, hee is bounde to yeeld to y<sup>e</sup> Lord of his fee,

dicunt quod cōmittere tutelam infantis illi, qui est ei proxime successurus, est quasi agnū cōmittere lupo ad deuorandum. Sed si hæreditas illa, non in socagio, sed teneatur per seruiciū militare, tunc per leges terræ illi<sup>9</sup>, infans ipse & hæreditas eius, non per agnatos neq; cognatos, sed per dominū feodi illius custodiētur, quousq; ipse fuerit etatis viginti & vnius annorū. Quis, putas, infantē talem, in actibus bellicis, quos facere, ratione tenurę suę, ipse astringitur domino feodi sui, melius instruere poterit, aut velit,  
O. J. quam



*Fortescue, in commendation*

quam dominus ille,  
cui ab eo seruitium  
tale debetur? & qui  
maioris potentiae &  
honoris estimatur,  
quam sunt alij amici  
propinqui tenentis  
sui? Ipse namq; vt si-  
bi ab eodem tenen-  
te melius seruiatur,  
diligentem curā ad-  
hibebit, & melius in  
his eum erudire ex-  
pertus esse censetur,  
quam reliqui amici  
iuuenis, rudes for-  
san & armorum in-  
experti, maxime si  
non magnum fuerit  
patrimonium eius.  
Et quid utilius est in-  
fanti, qui vitam &  
omnia sua periculis  
bellicis exponet in  
seruicio domini sui  
ratione tenuræ suæ,

then the Lorde himselſe,  
to whome ſuch ſeruiſe is  
by him due? Which is  
alſo to bee iudged of  
more power and honour,  
then the friends and kind-  
folke of his tenaunt. For  
hee, to the intente hee  
may in time to come bee  
the better ſerued of his  
tenaunt, will uſe the  
more diligence towards  
him, And it is to bee pre-  
ſumed, that hee is more  
expert and ſkilful to trade  
him in his thinges, then  
his other friendes, rude  
peradventure & unprac-  
tiſed in martiall feates,  
ſpecially if his patrimo-  
nie bee but ſmall. And  
what can bee more pro-  
fitable for the child, which  
by reaſon of his tenure,  
ſhall in the ſeruiſe of his  
Lorde, endaunger his life  
and

and all that hee hath , in the actes of Chivalrye , then in his nonage, to bee brought vp in the discipline and practise of the same , seeing that in his ripe age hee shall not bee able to auoyde the aduventure thereof : And to say the trueeth, it shall bee no small commoditie for the Realme, that the inhabitants of the same bee well expert in the knowledge of Armes . For, as sayth the Philosopher, euery man doth the thing boldly, wherein hee assureth himselfe to bee skilfull . And do you not then, most Noble Prince, allow this Lawe , and commende it aboue the other nowe described :

quam in militia ac-  
tibusque bellicis  
imbui, dum mi-  
nor est, cum ac-  
tus huiusmodi ip-  
se in ætate matu-  
ra declinare non  
poterit ? Et reue-  
ra, non minime  
erit regno accom-  
modum, vt incolæ  
eius in armis  
sint experti. Nam,  
vt dicit Philoso-  
phus, audacter qui-  
libet facit, quod se  
scire ipse non diffi-  
dit. Nunquid tunc  
legem hanc, tu ap-  
probas, fili regis,  
& collaudas su-  
per Legem alte-  
ram iam descrip-  
tam?

D.iii.

*g Hero*



*Fortescue, in commendation*

*¶ Here, the Prince commendeth the education of Noble mens children being Orphanes. Cap. 45.*

**P**Rinceps, Immo, Cancellarie, legem hanc, plusquam alteram, ego laudo. Nam, in eius parte prima, quantum notasti, caute magis, quam ciuilis, ipsa prouidet securitati pupilli. Sed tamē in eius parte secunda, multo magis ego delector. Nam ab ea est, quod in Anglia, nobilium progenies defacili degenerari nō potest, sed probitate potius, strenuitate, & morū honestate, antecessores suos ipsa transcendet, dum in altiori, nobiliorique curia,

**Y**Es good Chancelloz, quoth the Prince, this Law I doo allowe muche more then the other. For in the first part of it, which you noted, it prouideth much more warily for the security and safegarde of the pupill, then the Ciuill law doth. Howbeit in the second part of the same, I do take more delight. For thereof it cometh to passe, that in Englande Noble mens childzen cannot easily degenerate, but rather passe and surmount their auncestours in vertue, in courage, and in honest conditions, for so much as they are brought vp and instructed in an higher and an honozabler Court, then

then in the houses of  
their Parents, though  
they? Parentes were  
peradventure broughte  
vp in the lyke places:  
For they? Parentes  
house was neuer yet  
lyke the Lordes house,  
whom as well the Pa-  
rents, as also the chil-  
dren serued. The Prin-  
ces also of the Realme,  
beeing ruled by thys  
Lawe, and lykewise  
other Lordes, holding  
their Lande immediate-  
ly of the King, cannot  
lightly fall to wanton-  
nesse and vnseemelines,  
seeing that in their child-  
hoode, while they bee  
Orphanes, they are  
broughte vp in the Kinges  
house, wherefore I  
must needes highly praise  
and commende the ryches

D.iii.

quam in domo pa-  
parentum, illa sit  
imbuta, licet in  
domo consimili  
forfan parentes eius  
educati erant: Qui-  
a consimilis adhuc  
non erat, domus  
parentum illorum,  
domui Domino-  
rum, quibus, ipsi  
parentes, & ipsi in-  
fantes, seruierunt.  
Principes quoque  
regni sub hac lege  
regulati, similiter  
& domini alij a re-  
ge immediate te-  
nentes, non pos-  
sunt de leui in las-  
ciuiam ruditer muc-  
labi, cum in pue-  
ritia, dum Orpha-  
ni fuerint ipsi, in do-  
mo regia nutriuntur.  
Quare non infime  
domus



*Fortescue, in commendation*

domus regiae opulentiam magnitudinemque collaudo, dum in ea gymnasium supremum, sit nobilitatis regni, schola quoque strenuitatis, probitatis, & morum, quibus regnum honoratur, & floret, contra irruentes securatur; etiam formido, ipsa, erit, inimicis & amicis regni. Hoc reuera bonum accidisse non potuisset regno illi, si nobilium filij, orphani & pupilli, per pauperes amicos parentum suorum nutrerentur. Nec regni bono officere potest, licet burgensium filij & aliorum libere tenentium,

and high porte of the Kings Court, in that it is the chiefest schoole within the Realm, for the Nobilitie of the Land. It is also the Schoolehouse of manhood, of vertue, and of good manners, whereby the Realme is honoured, and flourisheth, and is preserved against inuasions: so that it is dreaded both of friends and foes. And to bee plaine, this great commoditie could not haue happened to the Realme, if Noble mens children, being Orphanes and pupilles, had beene nourished and broughte up by the poore friends of their Parents. Neither can this bee prejudiciall or hurtfull to the wealth of the Realme, that the Children of Burgeses, and

and of other freeholders, whiche holde their tenements in socage, & are not therby bound to warfare, ar brought vp in the houses of their like friendes, as to him, that shall thoroughly weigh the matter, it may euidently appeare.

qui in socagio tenet tenementa sua, quod ipsi ad militiam non astringuntur, in domo consimilium amicorum suorum educantur, ut perspicue consideranti, lucide apparere potest.

¶ Yet he rehearseth other cases, wherein the foresaid lawes differ.

Cap. 46.

There bee yet diuers other cases, quod the Chauncellour, wherein, the Lawes aforesayde doe varpe. As in that the Ciuile Lawes doe iudge, open thefte to bee satisfied by the recompence of fowerfolde, and priuie Thefte by the recompence of double. But the Lawes of England suffer neither of

¶ Vnc Cancellarius. Sūt & alij casus nonnulli, in quibus differunt leges antedictae. Vt quia leges ciuiles iudicāt, furtum manifestū, per redditionē quadrupli: & furtum non manifestum, per dupli recōpensationē, expiari. Sed leges Angliæ, neutrum facino-



*Fortescue, in commendation*

facinorum illorum, mitius quam cōmittentis morte puniri permittunt, dummodo ablati valor, duodecim denario-  
rū valorē excedat. Itē libertinum, ingratum, leges ciuiles in pristinā redigunt. Seruitutem: sed leges Anglię semel manumissum, semper liberum iudicant, gratum & ingratum. Alij quoque sunt casus huiusmodi nō pauci, quos iam, studio breuitatis, prætereo. Et neq; in hijs duobus casibus, prædictarum legum præstātiā, ego iam describo, cum nō magnæ sint indaginis, those offences to be more fauourably punished, then with the offendours death, so that the value of the thing stollen bee aboue the value of twelue pence. Also a libertine, that is to say, a freeman, that sometime was bonde, if hee become unkinde or churlishe, the Ciuile Lawes reduce him into his former state of seruitude againe: But by the Lawes of Englande, he, that is once made free, be he grate or ingrate, is iudged to enioy his Freedome still. There be other lyke cases also not a few, which at this tyme for breuities sake I ouerpasse. Neyther in these two cases, do I dispute the excellencie of the foresayde Lawes, seeing

seeing the qualities of the  
require no great searche.  
And I doubt not, but the  
quickness of your witte is  
such, that it can sufficient-  
ly discusse the same.

corum qualitates,  
nec diffido; inge-  
nij tui solertiam eas  
sufficienter posse ri-  
mari.

*The Prince regardeth not the cases  
now rehearsed.*

Cap. 47.

**N**D nor it booteth not;  
good Chauncellour,  
herein much to tary, quod  
the Prince. For though  
in Englande, as well o-  
pen, as priuie theeves, are  
commonly put to death,  
yet cease they not there  
from stealing, as though  
they had no feare of so  
greate a punishment.  
Howe muche lesse then  
woulde they withholde  
their handes from theft,

**P**Rinceps. Nec ex-  
pedit Cancellarie;  
in his multū suda-  
re: quia, licet in An-  
glia fures clandesti-  
ni, & manifesti pas-  
sim morte plectan-  
tur, non cessant ipsi  
ibidē omnino præ-  
dari, ac si pænā tan-  
tam illi minimē for-  
midarent. Quanto  
tunc minus, se ab-  
stinerent a crimine,

fi



*Fortescue, in commendation*

si pœnam prævide-  
rent mitiorem? Et  
absit, a seruitute se-  
mel euasum, sem-  
per deinde sub mi-  
nis tremere seruitu-  
tis, maxime ingra-  
titudinis colore,  
cum ingritudi-  
num species, vix po-  
terint, præ multitu-  
dine, numerari, &  
humana natura, in  
libertatis causa, fa-  
uorem semper, ma-  
gis, quam in causis  
alijs, deprecetur.  
Sed iam, Cancellar-  
ie, obnixè te im-  
ploro, vt amodo a-  
missa plurium ca-  
suū huiusmodi exa-  
minatione, mihi edi-  
cas, quare leges An-  
glia, tam bonæ, fru-  
gi, & optabiles, in

if they foresaw once that  
the punishment were mi-  
tigated: And God forbid,  
that hee, which once hath  
escaped miserable serui-  
tude, shoulde euer after  
tremble and quake at the  
threatnings of bondage,  
specially vnder the colour  
of ingratitude or unkind-  
nesse, seeing the kindes  
of ingratitude are so ma-  
nie, that they can skante  
well bee numbred: and  
mans nature, in the cause  
of libertie of freedome,  
more then in other cau-  
ses, requireth fauour.  
Wherefore at this time,  
good Chauncellour, I be-  
seeche you hartily medle  
no more with the exami-  
nation of any such cases.  
But now explaine & open  
vnto me, why the laws of  
England, bepng so good,  
so

so fruitfull, and so commodious, are not taught in the Vniuersities, as the Ciuill and Canon lawes are: and why in the same, none are commenced Bachelers & Doctors, as in other faculties & sciences it is accustomed.

vniuersitatibus non docentur, vt Ciuiles similiter & Canonũ leges: & quare in eisdem, non datur Baccalariatus & doctoratus gradus, vt in alijs facultatibus & scientijs est dari consuetum.

*¶ Here the Chauncellour sheweth, why, the Lawes of England are not taught in Vniuersities. Cap. 48.*

**I**N the Vniuersities of England, quod the Chauncelour, sciences are not taught but in the Latine tongue: And the lawes of that land are to be learned in thre seuerall tongues: to wit, in the English tongue, the french tongue, & the Latine tongue.

**C**ancellarius, in Vniuersitatibus Angliæ, non docentur scientiæ nisi in Latina lingua: Et leges terræ illius in triplici lingua addiscuntur: videlicet, Anglica, Gallica, & Latina,



Anglica, quia inter  
Anglos, lex illa ma-  
ximè inoleuit. Gal-  
lica, quia postquam  
galli, Duce Wilhel-  
mo Anglię conque-  
store, terram illā op-  
timuerunt, non per-  
miserunt ipsi, eorum  
aduocatos placitare  
causas suas, nisi in  
lingua, quā ipsi no-  
uerunt, qualiter &  
faciūt omnes aduo-  
cati in Frācia, etiam  
in curia parliamenti  
ibidē. Consimiliter  
gallici, post eorū ad-  
uētum in Angliam,  
ratiocinia de eorum  
prouētibus non re-  
ceperunt, nisi in  
proprio idiomate,  
ne ipsi inde decipe-  
rentur. Venari etiā,  
& iocos alios exer-

In the English tongue,  
because that law is most  
vled, & longest continued  
amongest the English-  
men. In the French ton-  
gue, because that after the  
French men vnder Wil-  
liam the Conquerour of  
England had obtained the  
land, they suffred not their  
men of law to plead their  
causes, but in the tongue  
which they knew, and so  
do all the men of law in  
Fraunce, yea in the court  
of Parliament there. Like  
wise the French men, af-  
ter their comming into  
England, receiued not the  
accompts of their reuenues,  
but in their owne lan-  
guage, least they should  
be deceiued therein. Nei-  
ther had they delyght to  
hunt, and to exercise other  
spoꝛtes and pastimes, as

*Dyce,*

byce play, and the hand ball, but in their owne proper tongue. Wherefore the Englishmen by much vsing of their company, grew in such a perfectnesse of the same language, that at thys day in such playes and accomptes they vse the French tongue, And they were wont to plead in French, till by force of a certaine statute, that manner was much restrayned, But it could neuer hitherto, bee wholly abolished, as well by reason of certeyne termes, whych pleaders doe more properly expresse in French, then in Englyshe, as also for that declarati-  
ons vpon originall writs cannot be pronounced so agreeably to the nature

cere, vt talorum & pilarum ludos, non nisi in propria lingua delectabantur. Quo, & Anglici, ex frequēti eorū in talibus comitiua, habitū talē contraxerūt, qd' hucusq; ipsi in ludis hūmodi, & cōpotis, linguā loquūtur gallicanā, & placitare in eadem lingua soliti fuerūt, quousq; mos ille, vigore cuiusdā statuti quāplurimū restrictus est, tamē in toto hucusq; aboleri non potuit, tū ppter terminos quosdam, quos pl' propriē placitantes, in gallico, quā in Anglico, exprimūt, tū qā declarationes sup bria originalia, tā cōueniēter ad naturā breuiū illo-



*Fortescue, in commendation*

illorum pronuntiari nequeūt, vt in Gallica, sub quali sermone declarationū huiusmodi formulæ addiscuntur. Reportantur etiam ea, quæ in curijs Regijs placitantur, disputantur, & iudicantur, ac in libros ad futurorū eruditionē rediguntur in sermone semper gallico. Quāplurima etiā statuta regni illi<sup>9</sup>, in gallico cōscribuntur. Vnde accidit, qd' lingua iam in Francia vulgaris, non concordat aut consimilis est gallico inter legisperitos Angliæ vſitato, sed vulgariter quadam ruditate corrupto. Qd' fieri nō accidit in sermone gallico

of those wryttes, as in French, And vnder the same speech the fourmes of such declarations are learned. Moreover, all pleadings, arguings, and iudgements passed in the kinges court, and entered into bookes, for the instruction of them, that shall come after, are euer more reported in the French tongue. Many Statutes also of that royaume are wrytten in French. Whereof it happeneth that the common speech, now vſed in Fraunce, agreeth not, nor is not lyke the French vſed amonge the Lawyers of England, but it is by a certein rudenesse of the common people corrupt. Which corruption of speech changeth not in the French  
that

that is vsed in Englande, for so much as the speech is there oftener witten then spoken. Nowe in the thirde of the said three tongues, which is the Latine tongue, are witten all writs originall and iudiciall: and likewise all the Records of ples in the Kings Courtes, with certaine Statutes also. Wherefore, while the Lawes of Englande are learned in these three tongues, they can not conveniently bee taught or studied in the vniuersities, where onely the Latine tongue is exercised. Notwithstanding the same Lawes are taught and learned, in a certaine place of publique or common studie, more convenient and apt for attayninge to the

infra Angliam vsitato, cum sit sermo ille ibidem sæpius scriptus quam locutus. Sub tertia vero linguarum prædictarum, v. z. sub latina, omnia breuia originalia & iudicialia, similiter & omnia recorda placitorum in curijs regum, etiam & quædam statuta scribuntur. Quare, dum leges Angliæ in his tribus addiscuntur linguis, ipse in vniuersitatibus, vbi solū exercetur lingua latina, conuenienter erudiri non poterūt aut studeri. Leges tamen ille in quodā studio publico particularū apprehensione (omni vniuersitate conuenientiore & P. j.

pro-



proniore) docentur  
& addiscuntur. Stu-  
diū namq; istud, si-  
cut est prope curiam re-  
gis, vbi leges ille pla-  
citantur, disputantur  
& iudicia per easdē  
redduntur p iudices  
viros graues, senes,  
in legib<sup>9</sup> illis peritos  
& graduatos, quo in  
curijs illis, ad quas  
omni die placitabili  
cōfluunt studētes in  
legibus illis, quasi in  
scolis publicis, leges  
illæ leguntur & do-  
centur. Situatur eti-  
am studiū illud, inter  
locum curiarum illa-  
rum, & Ciuitatem  
Lōdon, quæ de om-  
nibus necessarijs o-  
pulentissima est om-  
niū ciuitatum & op-  
pidorum regni illius,  
Nec in ciuitate illa,

knowledge of them, then  
any other vniuersity. For  
this place of studie is si-  
tuate nigh to the Kinges  
Courts, where the same  
lawes are pleaded and ar-  
gued, and iudgements by  
the same giuē by Iudges,  
men of grauitie, auncient  
in yeares, perfit and gra-  
duate in the same lawes.  
¶ Therefore, euerie day in  
court, the studēts in those  
Lawes resorte by great  
numbers into those courts  
wherein the same Lawes  
are read and taught, as it  
were in common scholes.  
This place of studie is  
set betweene the place of  
the saide Courts and the  
Cittie of London, which  
of all thinges necessarie  
is the plentifullest of all  
the Citties and townes of  
the realme. So that the  
said place of studie is not  
situate

situate within the Cittie, where the confluence of people might disturbe the quietnes of the students, but somewhat seuerall in the suburbs of the same Cittie, and nigher to the said Courts, that the students maye dayelye at their plesure haue accesse and recourse thether without wearinesse.

vbi cōfluentium turba, studentium quietē perturbare possit, si tum est studiū istud, sed seorsum parumper, in ciuitatis illius suburbio, & propius Curijs prædictis, vt ad eas sine fatigationis incōmodo, studentes, indies ad libitū, accedere valeant.

¶ Here he declareth the disposition of the generall studie of the Lawes of England, and that the same in number of students passeth certaine vniversities. Cap. 49.

**B**Ut to the intent most excellent Prince, yee may conceiue a forme and an image of this study, as I am able, I wil describe it vnto you. For there bee in it ten lesser houses or Inns, & somtimes moe,

**S**Ed, vt tibi constet princeps, huius studij forma & imago, illam, vt valeo, iam describam. Sunt namq; in eo, decem hospicia minora, & quādoq; vero plura



*Fortescue, in commendation*

que nominatur hospitia Cancellariæ ad quorum quodlibet pertinent centū studentes ad minus, & ad aliqua eorū maior in multo numerus, licet non omnes semper in eis simul cōueniant. Studētes etenim isti, pro eorū partē maiori, iuuenes sunt, originalia, & quasi legis elementa addiscentes, qui in illis proficiētes, ut ipsi maturescunt, ad maiora hospitia studij illius, quæ hospitia curiæ appellantur, assumuntur, Quorū maiorum, quatuor sunt in numero, & ad minimum eorum pertinent in forma prænotata, ducenti studentes aut prope.

which are called Innes of the Chauncery, And to every one of them, belongeth an hundred students at the least, and to some of them a much greater number, though they bee not euer all together in the same. These students, for the most part of them, are young men, learning or studying the originals, and, as it were, the elements of the lawe, who profiting therein, as they grow to ripenesse, so are they admitted into the greater Innes of the same studie, called Innes of Courte. Of the which greater Innes there are fower in number, And to the least of them belongeth, in foure aboute mentioned, two hundredeth Students or there-aboutes.

For

Foz in these greater  
Innes, there can no  
Student bee mayntay-  
ned foz lesse expenses by  
the yeare, then twentye  
Markes, And if hee  
haue a seruaunt to waite  
vppon him, as most of  
them haue, then so much  
the greater will his char-  
ges bee. Nowe, by  
reason of this charges,  
the childzen onely of No-  
ble menne doo studie the  
Lawes in those Innes.  
Foz the poore and com-  
mon sorte of the people,  
are not able to beare so  
great charges, foz the  
exhibytion of theyr  
Chyliden. And Mar-  
chaunt menne can sel-  
dome finde in theyr  
hearts to hynder theyr  
marchaundyse wyth so  
greate yearely expenses.

P.iii.

In hijs enim maiori-  
bus hospicijs, nequa-  
quam potest studēs  
aliquis sustētari mi-  
noribus expensis in  
anno, quam octo-  
ginta scutorum, & si  
seruientem sibi ipse  
ibidem habuerit, vt  
eorum habet plura-  
litas, tanto tunc ma-  
iores ipse sustinebit  
expēsas. Occasione  
vero sumptuū hūmīdī,  
ipsi nobiliū filij tan-  
tum in hospicijs illis  
leges addiscunt. Cū  
pauperes & vulga-  
res, pro filiorum su-  
orum exhibitione,  
tantos sumptus ne-  
queant sufferre. Et  
mercatores raro cu-  
piant tantis oneri-  
bus annuis, attenua-  
re mercandisas suas.

Quo



*Fortescue, in commendation*

Quo fit, vt vix do-  
ctus in legibus illis  
reperiatur in regno,  
qui non sit nobilis,  
& de nobilium ge-  
nere egressus. Vnde  
magis alijs consimi-  
lis status hominibus,  
ipsi nobilitatem cu-  
rant, & conseruatio-  
ne honoris & fame  
sue. In his reuera  
hospicijs maioribus,  
etiam & minoribus,  
vltra studium legu,  
est quasi gymnasium  
omniu morum, qui  
nobiles decent. Ibi  
cantare ipsi addis-  
cunt, similiter & se  
exercent in omni  
genere harmoniae.  
Ibi etiam tripudia-  
re, ac iocos singulos  
nobilibus conueni-  
entes, qualiter in

And thus it falleth out  
that there is scant anye  
man founde within the  
Realme skilfull and cun-  
ning in the Lawes, except  
he be a Gentleman bozne,  
& come of a Noble stocke.  
Wherefore they moze, the  
any other kinde of men,  
haue a speciall regarde to  
their Nobility, and to the  
preseruatiō of their ho-  
nor & fame. And to speake  
vp rightly, there is in these  
greater Innes, yea and in  
the lesser to, beside the stu-  
die of the lawes, as it were  
an vniuersity or schoole of  
all commendable qualities  
requisite for Noble men.  
There they learn to sing,  
and to exercisethemselues  
in all kinde of harmonye.  
There also they practise  
daunsing, & other Noble  
mens pastimes, as they vse  
to

to doo, which are brought  
up in the kings house: On  
the working dayes, the  
most of them apply them-  
selues to the studie of the  
Lawe, And on the holye  
dayes to the studie of ho-  
ly Scripture: and out of  
the tyme of diuine Ser-  
uice, to the reading of  
Chronicles. For there  
in deede are vertues stu-  
died, and vices exiled.  
So that, for the endow-  
ment of vertue, and aban-  
doning of vice, Knights  
and Barrons, with o-  
ther states and Noble  
men of the Realme, place  
their Children in those  
Innes, though they de-  
sire not to haue them  
learned in the Lawes,  
nor to liue by the practise  
thereof, but onely vpon  
their fathers allowance.

¶

¶.iiii.

domo regia, exerce-  
re solent, nutriti in  
ferialib<sup>9</sup> diebus, eo-  
rū pars maior, lega-  
lis discipline studio,  
& in festiualibus sa-  
cræ scripture, & cro-  
nicorū lectioni, post  
diuina obsequia, se  
confert. Ibi quippe  
disciplina virtutum  
est, & vitiorum om-  
nium exilium. Ita vt  
propter virtutis ac-  
quisitionem, vitijs e-  
tiam fugam, milites,  
barones, alij quoque  
magnates & nobi-  
les Regni, in hospi-  
tijs illis ponunt fi-  
lios suos, quamuis  
non gliscant eos le-  
gum imbui discipli-  
na, nec eius exerci-  
tio viuere, sed solum  
ex patrocinijs suis.

Ibi



*Fortescue, in commendation*

Ibi vix vnquam seditio, iurgium, aut murmur resonat, & tamen delinquentes nō alia pœna, quam solum a communione societatis suæ amotione plectuntur, quia pœnam hanc ipsi plus formidant, quam criminosi alibi carcerem timent, aut vincula, nam semel ab vna societatum illarum expulsus, nunquam ab aliqua cæterarum societatum earundem, recipitur in socium, quo ibi pax est continua, & quasi amicitia coniunctorum, est eorum omnium conuersatio. Formā vero, qua leges illæ in his discuntur

Scant at anye time is there heard amonge them any sedition, chydning or grudging, And yet the offendours are punished with none other payne, but onely to bee amouued from the companye of their felowshippe. Which punishment they doo more feare, then other criminal offendours doo feare imprisonment and p̄sons: For hee that is once expelled from anye of those felowshippes, is neuer receiued to bee a felowe in anye of the other felowshippes, And so by this meanes there is continual peace: and their demeanour is lyke the behaviour of such as are coupled togeather in perfect amytie. But, after what manner and sort the lawes

Lawes are learned in those  
 Innes, thereof heere to  
 make rehearfall, it is not  
 needfull, forsomuch as it  
 is not for your estat, most  
 noble Prince, to put the  
 same in vze. Yet knowe  
 ye this, that it is pleasant  
 and delectable, & in anie  
 wise expedient, for the  
 learning of the Law, and  
 worthy with all affection  
 to be embraced. But one  
 thing there is, y<sup>e</sup> I would  
 haue you to know, y<sup>e</sup> nei-  
 ther at Orléance, where,  
 aswel the Canō, as the ci-  
 uil lawes, are taught, and  
 whether, out of many coun-  
 tries, scholars do repaire,  
 nor at Angers, or at Caen,  
 or any vniuersity of France  
 (Paris onely excepted)  
 are founde so many stu-  
 dentes past childhoode,  
 as in this place of studie,

hospitijs, hic expri-  
 mere non expedit,  
 cum tibi, princeps,  
 eā experiri nō lice-  
 at. Scito tamē, quod  
 delectabilis ipsa est,  
 & omni modo ex-  
 pediēs legis illi<sup>9</sup> dis-  
 cipline, omni quoq;  
 affectione digna. V-  
 num tamen te scire  
 desidero, quod neq;  
 Aurelianis, vbi tam  
 Canones addiscun-  
 tur, quam ciuiles le-  
 ges, & quō, a qua, ne  
 pluribus regionibus  
 confluunt scolares,  
 neq; Andaginis, aut  
 in Cadamo, aliaue  
 vniuersitate Fran-  
 ciae, prāterquam  
 solum Parisijs, repe-  
 riuntur tot studen-  
 tes infantiam euasi,  
 sicut in hoc studio,  
 licet



*Fortescue, in commendation*

licet ibi addiscentes omnes, solū ab Anglia sint oriundi.

notwithstanding that all the students there are English borne.

*¶ Of the estate and degree of a Serieant at Lawe, and how he is created. Cap. 50.*

**S**Ed cum tu, princeps, scire desideres, cur in legib<sup>9</sup> Angliæ nō dātur baculariat<sup>9</sup> & doctoratus grad<sup>9</sup>, sicut in vtroq; iure in vniuersitatibus est dare consuetū: Scire te volo, quod licet grad<sup>9</sup> huiusmodi, in legibus Angliæ, minime cōferātur, datur tamen in illis, nedū gradus, sed & status quidā, gradu doctorat<sup>9</sup>, nō minus celebris aut solēnis, qui gradus seruiētis ad legē appellatur. Et cōfertur sub hac, quæ subse-

**B**Ut forsomuche as you desire to knowe, moste gracious p<sup>r</sup>ince, for what cause the degrees of Bachelars and Doctours are not geuen in the Lawes of Englande, as they are accustomedly geuen in bothe Lawes within vniuersities, your Maiestie shall vnderstande, that, though these degrees are not geuen in the Lawes of Englande, yet there is geuen in them not a degree only, but also a state no lesse worshipfull and solempne, then the degree of doctours: which is called the degree of a Serieant at Lawe. And it is geuen

geuen vnder the maner  
 & fourme followyng. The  
 lord chiefe Iustice of the  
 Common bench, by the  
 Counsel & assent of all the  
 Iustices, vseth, as oft as  
 hee thinketh good, to  
 chose seauen or eyght of  
 the discreetest persones,  
 that in the foresaide ge-  
 nerall studie haue molte  
 proficed in the Lawes,  
 and whiche to the same  
 Iustices are thought to  
 bee of beste disposition,  
 and their names hee  
 presenteth to the Lorde  
 Chauncellour of Eng-  
 lande in wryting, Who  
 incontinent, by vertue of  
 the Kinges Writt, shall  
 charge euerie of the per-  
 sons elect, to be befoze the  
 king at a day by him as-  
 signed, to take vpon him  
 the state & degree of a ser-

quitur, forma. Capi-  
 talis Iusticiarius de  
 comuni banco, de  
 cōsilio & assensu om-  
 niū iusticiariorū, eli-  
 gere solet, quoties  
 sibi videtur oportu-  
 num, 7. vel 8. de ma-  
 turioribus personis,  
 qui in prædicto ge-  
 nerali studio maius  
 in legibus profecer-  
 unt, & qui eisdem  
 iusticiarijs optimæ  
 dispositionis esse vi-  
 dētur, et nomina eo-  
 rum ille deliberare  
 solet Cācellario An-  
 glia in scriptis, qui  
 illico mandabit per  
 brevia regis, cuius-  
 bet electorū, illorū,  
 q̄ sit coram rege, ad  
 diē per ipsū assigna-  
 tū, ad suscipiendum  
 statum & gradū ser-  
 uientis



*Fortescue, in commendation*

uientis ad legē, sub  
ingēti pæna, in quo-  
libet breuiū prædi-  
ctorum, limitata: ad  
quē diem quilibet  
eorum cōparēs, in-  
rabitur (super sancta  
dei euangelia) fore  
paratū, ad diē & lo-  
cum tunc sibi statu-  
endos, ad recipiēdū  
statū & gradū prædi-  
ctū, & quod ipse in  
die illo dabit aurum  
secundū cōsuetudi-  
nē regni in hoc casu  
vfitatā. Tamē, qua-  
liter ad diem illum,  
quilibet electorum  
prædictorū se habe-  
bit, necnō formam  
& modum, qualiter  
status & gradus hu-  
iusmodi conferen-  
tur & recipientur,  
hic inferere omitto:

ieaunt at Lawe, vnder  
a greate penaltie in e-  
uerie of the saide wryttes  
lymitted: On the which  
daye, euerie one of  
them appearynge, shal-  
bee swozne vppon the  
holpe Gospell of GOD,  
to bee readye, at the day  
and place then to bee ap-  
pynted, to receaue the  
state and degree afore-  
sayd, & that he the same  
daye shall gyue Golde  
accordeinge to the cu-  
stome in that behalfe vs-  
sed. Howe be it, howe  
and after what sorte, e-  
uerie of the sayde per-  
sonnes shall that day de-  
meane himselfe, and al-  
so the fourme and man-  
ner, howe, that state  
and degree shalbee gy-  
uen and receaued, for so  
much as the same can not  
so

so briefly be written, as to the shortnesse of thys work is requisite, therefore at this time, I will leaue these points vntouched. And yet I haue declared the same to you ere now by way of talke. But thys you must vnderstand, that when the day appointed is come, those elect persons among other solemnities, must keepe a great dinner, like to the feast of a kinges coronation, whych shall continue and last by the space of seauen dayes, And none of those elect persons shall defray the charges, growing to him about the costes of this solemnitie, with lesse expences, then the summe of fower hundred marks, so that the expences, which

cum scripturam maiorem illa exigant, quam cōgruit operi tam succincto. Tibi tamen, ore tenus, ea alias explicauī. Scire tamē te cupio, quod adueniente die sic statuto, electi illi, inter alias solemnitates, festum celebrant & conuiuium, ad instar coronationis Regis, quod & continuabitur per dies septem, nec quisquam electorum illorum, sumptus sibi contingentes circa solemnitatem creationis suae, minoribus expensis perficiet, quā mille & sex centorum scutorum, quō, expensae, quas



*Fortescue, in commendation*

octo, sic electi, tunc  
refundent, excedunt  
summā 3200. mar-  
carū expēsarū : pars  
quedā inter cætera,  
hæc erit. Quilibet e-  
orum dabit annulos  
de auro, ad valenci-  
am in toto 40. libra-  
rum (ad minus) mo-  
netæ Anglicanę: Et  
bene recolit Cæcel-  
larius ipse, quod, dū  
ille statū & gradum  
huiusmodi recepe-  
rat, ipse soluit pro  
anulis, quos tunc di-  
stribuit, 50. libras,  
quę sunt 300. scuta.  
Solet namq; vnus-  
quisque Seruiētium  
huiusmodi, tēpore crea-  
tionis suę, dare cuili-  
bet Principi, Duci, et  
Archiepō, in solēni-  
tate illa presenti, ac  
Cæcellario, & The-

eyght men, so elect, shall  
then bestowe, will sur-  
mount the summe of threē  
thousand and two hun-  
dred Markes: Of the  
whych expences, one  
parcell shall bee thys.  
Euery of them shall giue  
ringes of golde, to the  
value of fortie poundes  
sterling at the least: And  
your Chauncellour well  
remembzeth, that at  
what tyme he receyued  
thys state and degree,  
the ringes which he then  
gaue, stood him in fifty  
poundes. For, euery  
such Serieant, at the  
day of hys creation,  
vseth to gyue vnto eue-  
ry Prince, Duke, and  
Archbishop, beeing pre-  
sent at that solemnitie,  
and to the Lord Chaun-  
cellour, and Lord Trea-  
surer

fozer of England, a ring  
of the value of xxvi. shil-  
lings viii. pence. And to  
euery Earle and Bishop  
being lykewyse present,  
and also to the Lord priuy  
seale, to both the Lords  
chiefe Iustices, and to  
the Lord chiefe Baron  
of the kings Eschequer,  
a ring of the value of  
xx. shillings. And to euery  
Lord baron of the Parli-  
ament, and to euery Ab-  
bot & notable Prelate, &  
worshipful Knight, being  
then present, and also to  
the Master of the Rolls,  
and to euery Iustice, a  
ring of the value of a  
Marke, And lykewyse  
to euery Baron of the ex-  
chequer, to the Cham-  
berlaines, and to all the  
officers and notable men  
seruyng in the Kinges  
courts, ringes of a smal-

laurario Angliæ, a-  
nulū ad valorē 26.s.  
8.d', & cuilibet Co-  
miti & Epō cōsimi-  
liter p̄sētib⁹, necnō  
custodi priuati sigil-  
li, vtriq; capitali Iu-  
sticiariorū, & capita-  
li Baroni de scacca-  
rio Regis, anulum ad  
valorē 20.s'. & omni  
dñō baroni p̄liamē-  
ti, & omni Abbati &  
notabili Prelato, ac  
magno Militi, tunc  
p̄senti, custodi etiā  
Rotulorū cancellarię  
regis, & cuilibet Iu-  
sticiario, anulum ad  
valētiā 1. marcę, Si-  
militer & omni Ba-  
roni de scacc' regis,  
camerarijs, etiā om-  
nib⁹ officiarijs & no-  
tabilib⁹ viris in curijs  
regis ministratibus,  
anulos minoris p̄ci-  
cij,



*Fortescue, in commendation*

cij, conuenientes tamen statibus eorū, quibus donantur. Ita quod, non erit clericus, maxime in curia communis banci, licet infimus, quin anulum ipse recipiet conuenientē gradui suo. Et ultra hos ipsi dant anulos, alijs amicis suis. Similiter & librata magnam panni vnus sectæ, quā ipsi tunc distribuent in magna abundantia, nedū familiarib<sup>9</sup> suis, sed & amicis alijs & notis, qui eis attendent & ministrabunt tēpore solēnitatis prædictæ. Quare, licet in vniuersitatibus in gradum doctoratus erecti, expensas non modicas faciāt tem-

ler price, but agreeable to their estates, to whom they are giuen. Insomuch that there shall not be a clerk, specially in y<sup>e</sup> court of the common bench, but he shal receiue a ring conuenient for hys degree. And besides these, they gyue diuers ringes to other of their friendes. They gyue also liueries of cloth of one sute or colour in great abundance, not onely to their household meany, but also to their other friends & acquaintance, which, during the time of the foresaid solemnity, shal attend and waite vpon them. Wherefore, though in the Uniuersities, they, that are promoted to the degree of Doctors, do sustain no small charges at the tyme of their commencement

ntencemēt as in giuing  
of honets and other rich  
gifts, yet they giue no  
gold, nor do bestow any  
other gifts or costs like  
vnto these expenses. Nei-  
ther in any countrie of  
the world, is there anye  
special degree giuen in  
the Lawes of the same  
lande, but onelye in the  
realme of Englad. Nei-  
ther is there any man of  
lawe thorough out the  
vniuersal world, which,  
by reason of his office or  
profession, gaineth so  
much as one of these  
Serieants. No man al-  
so, be he neuer so cōing  
and skilful in the lawes  
of the realme, shalbe ex-  
alted to the office & dig-  
nitie of a Iustice in the  
court of ples befoze the  
king, or in the court of  
the comen bench, which

pore creationis suæ, ac  
birreta, alia quoque  
donaria quam bona e-  
rogent: non tamen au-  
rum ipsi conferunt aut  
alia donaria, sumptus-  
ue faciunt, his expen-  
sis similia. Neque in  
regno aliquo orbis ter-  
rarum, datur gradus  
specialis in legibus  
regni illis, præterquam  
solum in regno Ang-  
liæ. Nec est aduocatus  
in vniuerso mundo,  
qui ratione officij sui,  
tantum lucratur, vt ser-  
uiens huiusmodi. Nul-  
lus etiam, licet in legi-  
bus regni illius scien-  
tissimus fuerit, assume-  
tur ad officium & dig-  
nitatem iusticiarij, in  
curijs placitorum co-  
ram ipso Rege, &  
communis banci, quæ  
Q.i. sunt



*Fortescue, in commendation*

sunt supremæ curiæ  
eiusdem regni ordi-  
nariæ, nisi ipse primi-  
tus statu & gradu ser-  
uiens ad legem fue-  
rit insignitus. Nec  
quisquam, præterquā  
seruiens talis, in curia  
communis banci, vbi  
omnia realia placita  
placitantur, placita-  
bit. Quare ad statum  
& gradum talem, nul-  
lus hucusque assump-  
tus est, qui non in præ-  
dicto generali legis  
studio, sexdecim an-  
nos ad minus, antea  
compleuit, & in sig-  
num, quod omnes iu-  
sticiarij illi taliter ex-  
tant graduati, quilibet  
eorum semper utitur  
cum in curia regis se-  
det, birreto albo de  
serico, quod primū &

are the chiefe ordina-  
rie courtes of the same  
realme, vnlesse hee bee  
first promoted to the  
state & degree of a Ser-  
ieaunt at lawe. Neither  
shal any man, but onely  
such a Seriant, plead in  
the courte of the com-  
men bench, where al re-  
all actions are pleaded.  
Wherefore to this state  
and degree hath no man  
beene hitherto admit-  
ted, except he hath first  
continued by the space  
of sirteene yeares in the  
said generall studie of  
the law, and in token or  
signe, that all Iustices  
are thus graduat, euery  
of them alwaies, while  
he sitteth in the Kinges  
courts, weareth a white  
quopse of silke: which is  
the pꝛincipall and chiefe  
in-

insignement of habite,  
where with Serieants  
at lawe in their creati-  
on, are decked. And nei-  
ther the Iustice, nor yet  
the Serieant, shall euer  
put of the quoyse, no nor  
in the kinges presence,  
though hee bee in raste  
with his maiesties high  
nelle. Therefore, most  
noble Prince, you can-  
not hereafter doubt, but  
that these lawes, which  
so singularly aboue the  
Ciuille lawes, pea and a-  
boue the lawes of allo-  
ther realms, are honou-  
red, and with so solemae  
a state of such, as are  
learned therein, and doe  
professe the same, are  
worshipped, must needs  
bee precious, noble and  
highe, and of great ex-  
cellencie, and of speciall  
knowledge and vertue.

precipuū est de insig-  
nibus habitus, quo ser-  
uiētes ad legē, in eorū  
creatione, decorantur.  
Nec birretū illud iusti-  
ciarius, sicut nec serui-  
ens ad legē, vnquā de-  
ponet, quo caput suum  
in toto discooperiet, e-  
tiam in presentia regis  
licet cum celsitudine  
sua ipse loquatur. Qua-  
re princeps preclarissi-  
me, tu amodo haec stare  
non poteris, quin le-  
ges ita, quæ tam sin-  
gulariter supra ciuiles  
leges, leges etiam om-  
nium aliorum regno-  
rum honoratur, & tam  
solemni statu eructo-  
rum & ministrantium  
in eis venerantur, pre-  
ciosæ sint, nobiles, &  
sublimes, ac magnæ  
prestantiæ, maximæq;  
seruiliæ & virentis.

Q.ij.

After



After what manner, a Justice is created, and of his  
habite and conuersation. Cap. 51.

**S**ED vt Iusticiario-  
rum (sicut & serui-  
entum ad legem) sta-  
tus tibi innotescat, eo-  
rum formam officium-  
que (vt potero) iam  
describam. Solent nā-  
que in communi ban-  
co quinque iusticiarij  
esse, vel sex ad maius:  
Et in banco regis, qua-  
tuor vel quinque, ac  
quoties eorum aliquis  
per mortem vel aliter,  
cessauerit, Rex, de ad-  
uisamento consilij sui,  
eligere solet vnum de  
seruientibus ad legem  
& eum per litteras su-  
as patentes constitue-  
re in iusticiarium, lo-  
co iudicis, sic cessan-  
tis, & tunc cancel-

**B**Ut to the intent the  
state of Iustices as  
well as of Serieants at  
law, may be knowne to  
your grace, as I can, I  
will describe vnto you  
their forme & office. In  
the comon bench there  
are custonable v. Iusti-  
ces oꝝ six at y most. And  
in the kings bench fol-  
er oꝝ five. And as oft as  
the place of any of them  
by death oꝝ otherwise,  
is void, the Kinge v-  
seth to choose one of the  
Serieaunts at Lawe,  
and him by his letters  
patentes to ordeine a  
Iustice, in the place of  
the Iudge so ceasing,  
And then the Lorde  
Chauncellour of Eng-  
land

lande shall enter into the Court, where the Iustice is so lackinge, bringinge with him those letters patents, & sitting in the midst of the Iustices, causeth the seriant so elect to be brought in, to whom in the open Court hee notificeth the Kinges pleasure touching the office of the Iustice then voyde, & causeth the foresaid letters to be openly readde. Which done, the Master of the Rolles shall readde before the same elect person, the oathe that hee shall take, which, when hee hath sworne vpon the holy gospell of God, the Lorde Chauncellour shall deliver vnto him the Kinges Letters aforesaide, And the Lorde chiefe Iustice of the Courte shall assigne vnto him a

D.iii.

larius Angliæ adibit curiā, vbi iusticiarius sic deest, deferēs secum literas illas, ac sedens in medio iusticiariorū, introduci facit seruientē sic electum, cui in plena curia, ipse notificabit voluntatē regis, de officio iudiciario sic vacante, & legifaciet in publico literas prædictas: Quo facto, custos rotulorū cancellariæ regis leget coram eodē electo, iusiurandum quod ipse facturus est, quod & cū super sancta Dei euangelia ipse iurauerit, cancellarius sibi tradet literas regis prædictas, & capitalis iusticiarius curiæ illius assignabit sibi locum



*Fortescue, in commendation*

locum in eadē, vbi place in the same, where  
deinceps ille sedebit, & mox eum sedere faciet in eodē. he shal then place him, and that place shall hee afterward keepe. Yet you must  
Sciendum tamē tibi know, most noble Prince, that this Justice shal then  
Iusticiarius iste inter amonge other thinges  
cetera tunc iurabit: sweare, that he shall indifferently minister Justice  
se iusticiā ministraturum indifferenter to all men, as well foes as  
omnibus hominib<sup>9</sup> friendes, that shall haue anye sute or plea befoze  
coram eo placitantes, inimicis & amicis, nec sic facere him, And this shall he not  
differet, etiamsi Rex forbeare to do, though the  
per literas suas, aut king by his letters, or by  
ore tenus contrariū expresse worde of mouthe,  
iusserit. Iurabit etiā, would command the contrary. He shall also sweare  
quod extunc nō recipiet ipse ab aliquo that from that time for-  
preterquam a rege, ward, he shall not receaue  
feodū, aut pensionē or take any fee or pension,  
aliquā, seu liberatā, or Liuerie of any man,  
neq; donū capiet ab but of the Kinge onely,  
habente placitū coram eo, noz anye gifte, rewarde  
praterquā haupng sute or Plea be-  
esculenta & pocu- foze him, sauing meat and  
drinke,

drinke, which shall bee of  
no greate value. You  
shall also knowe, that a  
Justice, thus made, shall  
not bee at the charges of  
any dinner, or solemni-  
tie, or anye other costes at  
the time when hee taketh  
uppon him his Office and  
dignitie, forsomuche as  
this is no degree in the fa-  
cultie of the Lawe, but  
an office only and a some  
of aucthoritie to continue  
during the Kinges plea-  
sure, Howbeit the habite  
of his rayment, hee shall  
from time to time for-  
warde, in some pointes  
change, but not in all the  
ensignements thereof.  
For beeing a Serieaunt  
at Lawe, hee was cloa-  
thed in a long robe priest-  
lyke, with a furred Cape  
about his shoulders, and  
thereuppon a Hoode with

Q.iiii.

lenta, quę non mag-  
nierunt precij. Sci-  
endū etiam tibi est,  
quod Iusticiarius sic  
creatus, conuiuium,  
solemnitatemue, aut  
sumptus aliquos, nō  
faciet, tempore sus-  
ceptionis officij &  
dignitatis suę, cum  
non sint illa gradus  
aliqui in facultate le-  
gis, sed officium suū  
illa sint & magistra-  
tus, ad regis natum  
duratura, habitū ta-  
men indumenti sui  
(in quibuidam) ipse  
extunc mutabit, sed  
non in omnibus in-  
signijs eius. Nā ser-  
uiens ad legem ipse  
existens, roba longa,  
ad instar sacerdotis,  
cū capicio penulato  
circa humeros ei⁹ &  
desuper collobio, cū

duo-



*Fortescue, in commendation*

duobus labelulis, two Labels suche as  
qualiter vt solēt do- Doctours of the Lawes  
ctores legum in vni- vse to weare in cer-  
uersatib<sup>9</sup> quibusdā, tayne Uniuersities,  
cum supra descrip- with the aboue descri-  
to birreto vestieba- bed Quoyse. But be-  
tur. Sed Iusticiarius ing ones made a Ju-  
factus loco collobij, stice, in steede of his  
clamide induetur, Hoode, hee shall weare  
firmata super hume- a Cloake cloased vp-  
rum eius dexterum, pon his righte shoul-  
ceteris ornamentis der, all the other or-  
seruiētis adhuc per- naments of a Serieant  
manentibus, excep- still remayning: sauing  
to quod stragulata that a Iustyce shall  
veste, aut coloris bi- weare no partye colou-  
pertiti, vt potest ser- red Vesture as a Ser-  
uiens, iusticiarius ieant may, And hys  
non vtetur, & capi- Cape is Furred wyth  
tium eius non alio none other then Bene-  
quā meneuerio pe- uer, whereas the Ser-  
nulat, Capitiū ieants Cape is euer  
tamē seruiētis pel- Furred wyth whyte  
libus agninis sem- Lambe. And thys  
per albis implicatur: Habyte I woulde wish  
qualem habitum te your Grace to bynge  
plus ornare optarē, into hygge estymation,  
when

when it shalbe in your power, for the worship of the state of the Law, & the honour of your Realme. Furthermoze, I woulde ye should knowe, that the Iustices of Englande sit not in the kings courts above iij. howers in a day, that is to say, from viii. of the clocke in the forenone til xi. complete, For in the afternones, those courtes are not holdē or kept. But the Suters then resort to the perusing of their writings, & elsewhere cōsulting with the Serieants at law, & other their cōsailours. Wherefore the Iustices, after they haue taken their refection, do passe & bestow all the residue of the day in the study of the lawes, in reading of holy Scripture, & vsing

cū potestas tibi fuerit, ad decorē status legis ad honorē regni tui. Scire te etiam cupio, quod iusticiarij Anglię nō sedēt in curijs regis, nisi per tres horas in die .s. ab hora viij. ante meridiē, vsq; horam xj. completam, quia post meridiē curiæ illæ nō tenētur. Sed placitantes tunc se deuertunt ad peruisum, & alibi cōsultantes cū seruientibus ad legem & alijs consiliarijs suis. Quare iusticiarij, postquam se refecerint, totum diei residuum pertranscunt, studēdo in legibus, sacrā legēdo scripturam, & aliter ad eorum



*Fortescue, in commendation*

eorum libitū cōtē-  
plādo, vt vita ipforū  
plus cōtēplatiua vi-  
deatur quā actiua.  
Sicq; quietā illi vitā  
agunt ab omni soli-  
citudine & mundi  
turbīnib⁹ semotam:  
nec vnquā cōpertū  
est, eorum aliquem,  
donis aut munerib⁹  
fuisse corruptū. Vn-  
de & hoc gen⁹ gra-  
tiæ vidim⁹ subsecu-  
tum, quod vix eo-  
rū aliquis sine exitu  
decedat, quod iustis  
magnæ & quasi ap-  
propriatæ benedic-  
tionis dei est, mihi  
quoq; non minimi  
muneris diuini cen-  
setur esse pensandū,  
quod ex iudicū so-  
bole, plures de pce-  
ribus & magnatibus

other kinde of contempla-  
tion at their pleasure, So  
that their lyfe may seeme  
more contemplatiue then  
actiue. And thus do they  
leade a quiet lyfe, dischar-  
ged of all worldly cares  
and troubles: And it hath  
neuer beene knowen, that  
any of them hath beene  
corrupte with giftes or  
brybes. Whereupon we  
haue seene this kinde of  
grace followynge, that  
skante any of them dieth  
without issue, which vn-  
to iust men is a token of  
the greate and peculier  
blessing of God, And in  
mine opinion it is to bee  
iudged for no small point  
of the bountefull good-  
nesse of God, that out of  
the generation of Iudges  
there haue hetherto sprōg  
vp mo states and peares  
of

of the realme, then out of any other state of men: which by their owne wit & policy haue aspired vnto great wealth, nobility & honour. Vea though the state of Merchautes surmount the nūber of Iudges by many thousands, being men of such singular wealth, that among them commonly there be such, as one of them in riches passeth all the Iustices of the realme. For this cānot be ascribed vnto Fortune, which is nothing, But it is to be attributed (as I take it) onely to the blessing of God. For so much as by his prophet he saieth, that the generation of righteous mē shal be blessed. And y<sup>e</sup> prophet in another place, speaking of iust men, sayeth,

regni hucusq; prodierunt, quam de aliquo alio statu hominum regni, qui se prudentia & industria propria, opulētos, inclitos, nobilesq; fecerūt. Quamquam mercatorum status, quorū aliqui sunt, qui omnib<sup>9</sup> iusticiarijs regni præstant diuitijs, iudicū numerum in millib<sup>9</sup> hominum excedat. Nam fortuna, quæ nihil est, istud ascribi nō poterit: sed diuinæ solū benedictioni fore arbitror tribuēdum. Cum ipse per prophetā dicat: quod generatio rectorū benedicetur. Et alibi de iustis loquens propheta ait: quod



*Fortescue, in commendation*

quod filij eorum in  
benedictione erūt.  
Dilige igitur, ( fili  
regis ) iusticiam,  
quæ sic dicitur, colit,  
& perpetuat fetus  
colentium eam. Et  
zelator esto legis,  
quæ iusticiam pa-  
rit, vt à te dicatur,  
quod a iustis scri-  
bitur: & semen eo-  
rum in æternū ma-  
nebit.

that their childezen shalbe  
in blessing. Wherefore, O  
most magnificēt prince, be  
you in loue with Justice,  
which thus enricheth, ex-  
alteth to honoꝝ & auāceth  
to perpetuite the childezen  
of thē that haue her in ve-  
neration. And be you a ze-  
lous louer of the law, the  
very wellspring of iustice,  
that by you it may be said  
that is writtē of y rightee-  
ous, And their seede shall  
remaine for euer.

*¶ The Prince findeth fault with delayes, that are  
made in the kings courtes. Cap. 52.*

**P**Rinceps. Vnū iā  
solū superest, Cā-  
cellarie, declarādū:  
quo parūper adhuc  
fluctuat, inquietatur  
quoq; mens mea. In  
quo, si eā solidaue-  
ris, nō ampli⁹ te que-  
stionibus fatigabo,

**T**here remaineth now  
but one thing, good  
Chauncellour, quod the  
Prince, to bee declared,  
wherw my mind sō what  
yet wauereth & is disqui-  
eted, wherein if you stay &  
satisfie me, I will trouble  
you with no mo questiōs.

*The*

The Lawes of England, as the report goeth, suffer great delays in their processes, more then the Lawes of other Nations, which unto others is not onely a hinderance of their right, but also many times an importable burden of charges, and chiefly in those actions, wherein damages are not allowed.

Dilationes ingētes, vt asseritur, patiuntur leges Angliæ in processib<sup>9</sup> suis, plusquam leges aliarum nationū, quod petētib<sup>9</sup>, nedū iuris sui prolatio est, sed & sumptuum quandoque importabile onus, & maximē in actionib<sup>9</sup> illis, in quibus damna petentibus non redduntur.

*Of Delays, that happen in the Kinges courtes, are necessarie and reasonable Cap. 53.*

In actions personall, quod the Chauncelloz, out of Cities & Townes of merchandize, where the maner of proceeding is according to the customes and liberties of the same, there the proceedings are ordinarie. And though they suffer great

Cancellarius, In actionibus personalibus, extra vrbes & villas mercatorias, vbi proceditur secundū consuetudines & libertates earundē, processus sunt ordinarij. Et quanta libet dilationes



*Forrescue, in commendation*

ones patiuntur, non  
tamen excessiuas. In  
urbibus veró & vil-  
lis illis, potissimū cū  
urgens causa depof-  
cat, celeris, vt in alijs  
mundi partibus fit  
processus, nec tamē  
(vt alibi) ipsi nimiū  
aliquando festinan-  
tur, quo subsequitur  
partis lesio. Rursus in  
realibus actionibus,  
in omnib<sup>9</sup> ferē mū-  
di partibus, morosi  
sunt pcessus, sed in  
Anglia, quodāmodo  
celeriores. Sūt quip-  
pe in regno Franciē  
in curia ibidē supre-  
ma, quę curia parli-  
amēti vocitatur, p-  
cessus quidā, qui in  
ea plus quā triginta  
annis pependerunt.  
Et noui ego appella-

delayes, yet they bee  
not excessiue. But in  
the same Cityes and  
Townes, chiefly when  
any vrgent cause so re-  
quireth, there is quicke  
dispatch made, like as in  
other parts of the world,  
and yet not wyth such  
hoat hast as in some other  
places, that the party  
bee thereby endamma-  
ged. Againe, in acti-  
ons reall, the procee-  
dinges are verpe slow,  
almost in all partes of  
the world, but in Eng-  
land, somewhat speedier.  
For, within the realme  
of Fraunce, in the highest  
Court there, whych is  
called the Court of par-  
liament, there bee cer-  
teine proseses that haue  
hanged there aboue thir-  
tie yeares. And I know  
that

that a cause of appeale, which in y<sup>e</sup> court between Richard Heron an English merchāt, & other merchāt men, for a transgression made, hath bin debated within the iurisdiction of that court, hath already hanged by the space of x. yerres, And it is not yet lyke, that it can be decided w<sup>in</sup> other x. yerres. While I was lately abyding in Paris, mine hoste shewed me hys processe in wryting, which in the court of Parliament there he had then folowed ful 8. yerres, for iiii. s. rēt, which in our money maketh not aboue viii. d, & yet he was in no hope to obtain iudgmēt in 8. yerres more : & I know other cases there, like vnto these, So that y<sup>e</sup> Lawes of Englād, as semeth to me, cause not so great delaies,

tionis causā vnā, quę in curia illa agitata fuit, iam per decem annos suspēsa fuisse, & adhuc verisimile non est, eam infra annos x. alios posse decidi. Ostendit & mihi dudū, dum Parisijs morabar, hospes meus processum suū in scriptis, quem in curia parliamenti ibidē ipse tunc 8. annis, pro 4. s. redditus, qui de pecunia nostra 8. d. nō excedunt, prosecutus est, nec sperauit se in 8. annis alijs iudiciū inde obtēturū. Alios quoq; nōnullos noui casus ibidē, his similes, sic quod leges Anglię, non tantas, vt mihi visū est, dilationes sortiuntur vt faciunt



*Fortescue, in commendation*

faciunt leges regionis illius. Sed reuera pernecessarium est, dilationes fieri in processibus omnium actionum, dummodo nimium ipse non fuerint excessiue. Nam sub illis, partes, & maxime pars rea, quæ sepe sibi prouideret de defensionibus utilibus, similiter & consilijs, quibus alias ipsi carerent. Nec unquam in iudicijs tantum imminet periculum, quantum parit processus festinatus. Vidi nempe quondam apud ciuitatem Sarum, coram iudice quondam ad gaolam ibidem deliberandam, cum clerico suo assignato, mulierem de morte mariti sui infra annum,

as do the Lawes of that countrey. But to speake vprightly, it is necessarie that delayes be had in the processes of all nations, so that the same be not too much excessiue. For, by reason therof, the parties, and chiefly the party defendant, do often tymes prouide themselves of good defenses, and also of counsels, which els they should lack. And in iudgements, there is neuer so great danger toward, as when processe goeth forward wyth ouer much hast. For I saw once in the Citie of Salisbury, before a certeine Iudge, at a gaole deliuerie there, wyth the Clerke of the assises, a woman attainted & burned for the death of her husband within a yeare, after

after he was slaine, In the which case, it was in the Judges power to haue reppieued, or respected that woemens arraignment till the ende of that yeare, And about a yere after that, I sawe one of the seruantes of the slayne man, conuict, befoze the same Justice, of the death of the same his master, Who then openly confessed, that he himselfe alone slue his master, and that his master his wife, which befoze was burned, was altogether innocent of his death. And hee for the same was drawn and hanged. And stilleuen at y point of death, hee lamented the woman burned, as one cleare from that offence,

de interfectione eius attinctam similiter & combustam, in quo casu licuit iudici illi, vsq; post annum illum arretamentum siue discretionē mulieris illius respectuasse, & post annū illū, vidi vnum de seruientibus interfecti illius, corā eodē iusticiario, de morte eiusdē magistri sui cōuictum, qui tunc publice fatebatur, ipsummet solum magistrū suum occidisse, & magistrā suā, vxorem eius, tunc cōbustā, innocentē omnino fuisse de morte eius: quare ipse tractus & suspensus fuit. Sed tamē omnino, etiā in ipso mortis articulo, mulierem combustā immunē a crimine illo fuisse, ipse lugebat.

R.j.

O



*Fortescue, in commendation*

O quale putandum est  
ex hoc facto cōscientiē  
discrimē & remorsum  
euenisse iusticiario illi  
tam præcipiti, qui po-  
tuit processum illū ius-  
te retardasse? Sepius  
proh dolor, ipse mihi  
falsus est, qđ nunquam  
in vita sua animum eius  
de hoc facto ipse pur-  
garet: crebro etenim in  
deliberationibus, iudi-  
cia maturescunt: Sed  
in accelerato processu,  
nunquam. Quare le-  
ges Angliæ essoniam  
admittunt, qualia non  
faciunt leges aliæ  
mundi vniuersi. Non-  
ne quam vtilēs sunt  
vocationes ad warran-  
tum? Auxilia de his,  
ad quos spectat reuer-  
sio tenementorum, qui  
in placitum deducunt,  
& qui habent euiden-

What perplexitie and  
remorse of conscience it  
is to be thought, that this  
so hasty a Justice had of  
this deede, which might  
iustly haue staid y pro-  
cesse: He himselfe (alas)  
often confessed vnto me  
that he should neuer du-  
ring his life bee able to  
cleare his conscience of  
this fact: For manie  
times, in deliberations,  
iudgements growe to  
ripnes, but in ouerhasty  
processe, neuer. Where-  
fore the lawes of Eng-  
land admit essoyne, and  
so doe no other lawes of  
all the worlde. Are not  
vouchinges to warrant  
right profitable, are not  
the aides of them profit-  
table, to whome the re-  
uersion of tenementes  
broughte in plea belon-  
geth, & which haue the  
euidences

euidences of the same . Are not also the aydes of coperteners profitable, which shall paye according to the rate of a tenement, allotted to their copertener by force of the Lawe euicted from him , And yet all these are delayes, as you, most Noble Prince , by my talke at other times doe well knowe : and the like delayes to these doe no other Lawes admit, neither doe the Lawes of Englande admitte tryflying and vnfruitfull delayes . And if any such fonde delayes shoulde be vsed , they maye at euerye Parliament be cut awaye . Yea and other Lawes vsed in the same Realme, when in any point they begin to halt , they may at euery

tias eorundē . Auxilia etiam de copertibus qui reddent pro rata, si tenementa cōparticipi allot-tatum, euincatur, & tamen hæc, dilationes sunt, sicut, tu princeps, alias nosti ex doctrina mea : Et dilationes his similes, leges alię non admittunt, neq; leges Anglię friuolas & infructuosas permittunt inducias. Et si quæ in regno illo dilationes in placitis, minus accommodæ, fuerint vsitæ, in omni parlamento amputari illę possunt, etiam & omnes leges alię, in regno illo vsitæ, cum in aliquo claudicauerint, in  
R.ij. omni



*Fortescue, in commendation*

omni parlamento  
poterunt reformari.  
Quo recte concludi  
potest, quod omnes  
leges regni illius op-  
time sunt, in actu vel  
potentia, quo facili-  
ter in actū duci po-  
terunt & in essenti-  
am realem. Ad quod  
faciendum, quoties  
æquitas id poposce-  
rit, singuli reges ibi-  
dem, sacramento a-  
stringuntur solem-  
niter præstito tem-  
pore receptionis di-  
adematis sui.

Parliament bee refour-  
med. Wherefore, it may  
well bee concluded, that  
all the Lawes of that  
Realme are right good,  
either in deede, or in pos-  
sibilitie, So that if they  
bee not presentlye good,  
they may easily bee redu-  
ced to the present perfec-  
tion of goodnesse. To the  
performace whereof, as  
oft as equitie so requireth  
euery king there is bound  
by an oathe solemnely ta-  
ken at the time of his Co-  
ronation.

*¶ The Lawes of England are right good, the know-  
ledge whereof is expedient for kings. Yet it  
shall suffice them to haue but a su-  
perficiall knowledge of the  
same. Cap. 54.*

**P**Rinceps. Leges  
illas, nedū bonas

**I**haue wel and euidently  
perceued, quod ꝑ prince  
by

by the proces of your talk, good Chācelloꝝ, that those Lawes are not onely good but also of most perfect & excellent goodnes. And if any of them haue neede to be amended, y may quickly be done, as the fourmes and orders of the Parliaments there doo plainly prooue. Therefore, the Realme is euer, really, or potentially, gouerned by most excellent & most worthy Lawes, and I doubt not, but that your instructions, in this our talk, shal be profitable for the kings of Englande, which hereafter shall be: so that they haue no pleasure in gouerning by vnpleasant laws. For the vnhandsonnes of y tool or instrumēt wearie the workman: & a blūt pike or a dull sworde maketh a cowardly soldiour.

R.iii.

sed & optimas esse, cancellarie, ex prosecutione tua in hoc dialogo certissime deprehendi. Et si quæ ex eis meliorari depossant, id citissime fieri posse, parliamentorum ibidē formulæ nos erudiunt. Quo, realiter, potēcialiterue, regnum illud semper præstantissimis legibus gubernatur, nec tuas in hac concionatione doctrinas, futuris Angliæ regibus, inutiles fore cōijcio, dum non delectet regere legibus, quæ non delectant. Fastidit namque artificē, ineptio instrumēti: & milite ignauū reddit, debilitas lanceæ & mucronis.

Sed



*Fortescue, in commendation*

Sed sicut ad pugna animatur miles, cum, nedum sibi prona sint arma, sed & magis, cum in actibus bellicis ipse sit expertus, dicente Vegetio de remilitari: quod, *scientia rei bellica, dimicandi audaciam nutrit.* (Quia nemo facere metuit, quod se bene didicisse confidit.) Sic & rex omnis, ad iustitiam animatur, dum leges, quibus ipsa fiet, nedum iustissimas esse agnoscit, sed & earum ille expertus sit formam & naturam, quas tantum in vniuersali, inclusue, & in confuso, principi scire sufficiet, remanente suis iudicibus, earum discreta de-

But like as a soldiour is encouraged to fight, not onely, when he hath hand-some and fit weapons in a readinesse, but also much more, when he is expert & skilfull in warlike actes, according to the saying of Vegetius in his booke of chivalry, that knowledge and cunning in Martiall feates ministreth boldnes in fighting (for no man feareth to doo that, which hee trusteth hee hath well learned) in like manner euery king hath a feruent zeale, and earnest desire to the maintensunce of Iustice, not onely knowing the Lawes, whereby that must bee done, to bee most iust, but also being skilfull in the forme and nature of the same. Whereof it shal suffice the Prince to haue only an vniuersal, a superficial,

ficial, and a confufe knowledge, the discrete and determinate perfectnes, and deep vnderstanding of the same, beeing left to his Judges. So also, ought all Princes to bee well seen in the holy scriptures of God, as sayth Vincentius Beluacensis in his booke of the morall institution of Princes, Forasmuch as the Scripture aboue mentioned saith, that vain are all they, in whom is not the knowledge of God, and for that in the sixteenth Chapter of the Proverbs it is thus written: Let prophesie, or the worde of God, bee in the lips of the king, & then his mouth shall not go wrong in iudgement. And yet is not a king bounde to haue profound knowledge and determinate vnderstan-

R.iiii.

terminataque peritia & scientia altiori. Sic equidē & scripturarum diuinarum peritiam, vt dicit Vincentius Beluacensis in libro de morali institutione principum, Omnis princeps habere deberet, cum dicat scriptura superius memorata, quod vani sunt omnes, in quibus non est scientia dei, & prouerb. xvi. scribatur: Diuination, id est, diuina sententia, vel, sermo diuinus, sit in labijs regis: & tunc in iudicio non errabit os eius. Non tamē profunde, determinateue intelligere teneatur Princeps scripturas



*Fortescue, in commendation*

turas sacras, vt de-  
cet sacre theologie  
professorem: sufficit  
namque ei, earū in  
confuso degustare  
sentētiās, qualiter &  
peritiā legis suæ.  
Sic & fecerūt, Caro-  
lus Magnus, Lodo-  
uicus filius eius, &  
Robertus quondam  
rex Franciæ, qui hāc  
scripsit sequentiā.  
(*Sancti spiritus adsit  
nobis gratia,*) & quā  
plures alij, vt in xv.  
cap. lib. prædicti,  
Vincentius prædi-  
ctus luculenter do-  
cet. Vnde & docto-  
res legū dicūt: quod  
imperator gerit om-  
nia iura sua in scrinio  
pectoris sui, nō quia  
omnia iura ipse nos-  
cit realiter & in actu,  
sed dum principia

ding in the holpe Scrip-  
tures, as it becommeth a  
Professour of Diuinitie:  
For it shall bee indough  
for him, superficially to  
taste the sentences there-  
of, as also of his Lawes.  
Thus did Charles the  
great, Lewes his sonne,  
and Robert sometyme  
King of Fraunce who  
wrote thys sequence.  
(*Sancti spiritus adsit nobis  
gratia,*) and diuers other  
Princes, as the foresaid  
Vincentius in the fif-  
teenth Chapter of hys  
Booke aforesayde plaine-  
ly sheweth. Where-  
fore the Doctours of the  
Lawes doo say, that an  
Emperour beareth all  
his Lawes in the bore of  
his brest: not for that  
hee knoweth all the  
Laws really and in deede,  
but for that hee vnder-  
stan-

standeth the Principles  
of them, likewise their  
forme and their nature,  
in which respect he is iud-  
ged to be skilfull in all  
his Lawes, Which also  
he may alter, change, and  
repeale: So that in him  
are potentially all his  
lawes, as Eve was in A-  
dā before shee was made.  
But now, good Chancel-  
lour, seeing I perceiue my  
selfe sufficiently perswa-  
ded to the studie of the  
lawes of England, which  
thing in the beginning of  
this worke you promised  
to performe, I will no lō-  
ger trouble you in this  
behalfe, But thus I in-  
stantly desire you, that ye  
will instruct me in the  
principles of the Lawe,  
as you once began to do:  
and that you will teache

eorum ipse perci-  
pit, formam simi-  
liter & naturam,  
omnia iura sua ipse  
intelligere cōfetur,  
quæ etiam transfor-  
mare ille potest, mu-  
tare & cassare: quò  
in eo potēcialiter sūt  
omnia iura sua, vt in  
Adam erat Eua, an-  
tequā plasmaretur.  
Sed quia, Cancellaria  
ad legum Anglię  
disciplinatum mihi  
iam cōspicio suffici-  
enter esse factum, q̃  
& in hui⁹ operis ex-  
ordio facere promi-  
sisti: Nō te amplius  
huius prætextu, soli-  
citare conabor, sed  
obnixē depono, vt  
in legis huius prin-  
cipijs, vt quondā in-  
cepisti, me erudias:

do-



*Fortescue, in commendation &c.*

docēs quodāmodo  
eius agnoscere for-  
mā & naturam, quia  
lex ista mihi semper  
peculiaris erit inter  
ceteras leges orbis,  
inter quas ipsam lu-  
cere cōspicio, vt lu-  
cifer inter stellas. Et  
dum intētionī tuæ,  
qua ad collationem  
hanc concitatus es,  
iam satisfactum esse  
non ambigo, tem-  
pus postulat & ra-  
tio, vt nostris collo-  
quijs terminum cō-  
feramus: reddentes  
ex eis, laudes ei &  
gratias, qui ea ince-  
pit, prosecutus est,  
& finiuit, Alpha &  
O. quem dicimus,  
quem & laudet om-  
nis spiritus, Amen.

me to knowe and under-  
stand the forme and na-  
ture thereof, For this  
Lawe shall be euermore  
peculiar to me among all  
other lawes of the world,  
among the whiche I see  
it shyne, as Lucifer a-  
mong the Starres. And  
forso muche as I doubt-  
not, but your intēt, wher-  
by you were moued to  
this cōference, is fully sa-  
tisfied: both time and rea-  
son requireth, that wee  
make an end of our talke,  
yeelding therfore laudes  
and thanks to him, which  
beganne, furthered, and  
hath finished the same,  
Whome wee call *Alpha*  
& *O.* who also be prayesed  
of euery liuing creature.  
Amen.

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